# EXHIBIT HH

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Page 1
         IN THE UNITED STATES DISTRICT COURT
      FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
                  CHARLESTON DIVISION
 IN RE: ETHICON, INC.,
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY
                            ) Master File No.
LITIGATION
                              2:12-MD-02327
                                  MDL 2327
                               JOSEPH R. GOODWIN
                               U.S. DISTRICT JUDGE
 THIS DOCUMENT RELATES TO:
 THE CASES LISTED BELOW
Mullins, et al. v.
                              2:12-cv-02952
Ethicon, Inc., et al.
 Sprout, et al. v.
                              2:12-cv-07924
 Ethicon, Inc., et al.
 Iquinto v. Ethicon, Inc., )
                              2:12-cv-09765
 et al.
Daniel, et al. v.
                              2:13-cv-02565
Ethicon, Inc., et al.
Dillon, et al. v.
                              2:13-cv-02919
 Ethicon, Inc., et al.
Webb, et al. v. Ethicon,
                              2:13-cv-04517
 Inc., et al.
                              2:13-cv-04730
Martinez v. Ethicon,
 Inc., et al.
                           ) 2:13-cv-07283
McIntyre, et al. v.
Ethicon, Inc., et al.
VIDEOTAPED DEPOSITION OF STEPHANIE BENIGHT, Ph.D.
      Tuesday, October 13, 2015, 11:45 a.m.
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       Atkins, et al. v.
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       Ethicon, Inc., et al.
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       Garcia v. Ethicon, Inc., ) 2:13-cv-14355
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       Lowe v. Ethicon, Inc., et ) 2:13-cv-14718
                                                                                        6
                                                                                                      DEPOSITION OF STEPHANIE BENIGHT, Ph.D.
       Ethicon, Inc., et al. v. ) 2:13-cv-14799
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                                                                                                      Held at the Offices of Regus Palo Alto
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       Vanbuskir, et al., v. ) 2:13-cv-16183
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                                                                                                         530 Lytton Avenue, California
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       Ethicon, Inc., et al.
       )
Mullens, et al. v.
Ethicar *
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                                                                                                      Tuesday, October 13, 2015, 11:45 a.m.
       Mullens, et al. v. ) 2:13-cv-16564
Ethicon, Inc., et al. )
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       Shears, et al. v. ) 2-13-cv-17012
Ethicon, Inc., et al. )
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                                                                                                 REPORTED BY: ELAINA BULDA-JONES, CSR #11720
16
       Lambert v. Ethicon, Inc., ) 2:13-cv-24393
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       Cook v. Ethicon, Inc., et ) 2:13-cv-29260
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        Matney, et al. v.
                           ) 2:14-cv-09195
                                                                                                                APPEARANCES
        Ethicon, Inc., et al.
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                                                                                                 For the Plaintiffs:
        Jones, et al. v. Ethicon, ) 2:14-cv-09517
                                                                                        3
 3
       Inc., et al.
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                                                                                                      Aylstock, Witkin, Kreis & Overholtz
                                                                                                       17 East Main Street, Suite 200
 4
        Humbert v. Ethicon, Inc., ) 2:14-cv-10640
                                                                                                      Pensacola, Florida 32502
                                                                                        5
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                                                                                                      BY: DANIEL THORNBURGH, ESQ.
        Gillum, et al. v.
                          ) 2:14-cv-12756
                                                                                        6
                                                                                                      BY: SAMANTHA KATEN
 6
        Ethicon, Inc., et al.
                                                                                                      850.202.1010
        Whisner, et al. v.
                                                                                        7
                           ) 2:14-cv-13023
)
                                                                                                      Dthornburgh@awkolaw.com
        Ethicon, Inc., et al.
                                                                                                      (PRESENT TELEPHONICALLY)
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        Tomblin v. Ethicon, Inc., ) 2:14-cv-14664
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                                                                                                 For the Defendants:
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                                                                                                      Butler Snow, LLP
10
        Schepleng v. Ethicon, ) 2:14-cv-16061
                                                                                                       1020 Highland Colony Parkway, Suite 1400
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                                                                                                      Ridgeland, Mississippi 39157
        Tyler, et al. v. Ethicon, ) 2:14-cv-19110
                                                                                                      BY: CHAD R. HUTCHINSON, ESQ.
12
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                                                                                                      601.985.4401
                                                                                                      Chad.hutchinson@butlersnow.com
        Kelly, et al. v. Ethicon, ) 2:14-cv-22079
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        Inc., et al.
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        Lundell v. Ethicon, Inc., ) 2:14-cv-24911
                                                                                                 Also present:
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        Cheshire, et al. v. ) 2:14-cv-24999
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16
                                                                                                      Steve Patapoff, videographer
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       Ethicon, Inc., et al. v. ) 2:14-cv-28620
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        Bennett, et al. v. ) 2:14-cv-29624
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2 (Pages 2 to 5)

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1 INDEX OF EXAMINATIONS	1 THE VIDEOGRAPHER: Good morning. We are
2 3 EXAMINATIONS PAGE	2 now on the video record. My name is Steve Patapoff.
4 MR. THORNBURGH 9	3 I'm the videographer for Golkow Technologies.
5 MR. HUTCHINSON 221 6 MR. THORNBURGH 252	4 Today's date is October 13th, 2015. Time is
7	5 11:45 a.m.
8 9	6 Deposition is being held in Palo Alto,
10 INDEX OF EXHIBITS	7 California, in the matter of In Re: Ethicon, Inc.,
11 NO. DESCRIPTION PAGE 12 Exhibit 1 Microscopy Image Index 32	8 Pelvic Repair Products Liability Litigation for the
13 Exhibit 2 Filename: Microscopy Image 32	9 U.S. District Court, Southern District of West
Index.docx, Author: Stephanie  14 Benight, Creation date:	10 Virginia, Charleston Division.
9/28/2015	The deponent is Dr. Stephanie Benight.
Exhibit 3 Notice of Videotaped 47	12 Will counsel please voice-identify
16 Deposition Pursuant to Rule 30	13 yourselves for the record.
and Document Requests Pursuant to Rule 34 of Stephanie	14 MR. THORNBURGH: This is Daniel Thornburgh
Benight, Ph.D.	15 for the plaintiff.
18	16 MR. HUTCHINSON: And Chad Hutchinson,
19 Project Plan, Amendment 1,	counsel for Ethicon and Johnson & Johnson.
Histion Study Number H150118	18 THE VIDEOGRAPHER: The court reporter is
Exhibit 5 Histion Chain of Custody 48	19 Elaina Bulda-Jones and will now swear in the
Exhibit 6 Flash Drive 48	20 witness.
22	21 STEPHANIE BENIGHT, Ph.D.,
Exhibit 7 Flash Drive 51	called as a witness by the Plaintiffs herein, being
Exhibit 8 Flash Drive 51	23 first duly sworn by the Certified Shorthand Reporter
Exhibit 9 SEM 56	was thereupon examined and testified as is
25 Exhibit 9 SLIVI 30	25 hereinafter set forth.
Page 7	Page 9
1 Exhibit 10 SEM 58	1 EXAMINATION
1 Exhibit 10 SEM 58 2 Exhibit 11 SEM 58	1 EXAMINATION 2 BY MR. THORNBURGH:
2 Exhibit 11 SEM 58 3 Exhibit 12 SEM 59	2 BY MR. THORNBURGH:
2 Exhibit 11 SEM 58 3 Exhibit 12 SEM 59 4 Exhibit 13 SEM 60	<ul> <li>BY MR. THORNBURGH:</li> <li>Q. Good morning, Dr. Benight. How are you</li> </ul>
2 Exhibit 11 SEM 58 3 Exhibit 12 SEM 59	2 BY MR. THORNBURGH: 3 Q. Good morning, Dr. Benight. How are you 4 doing today?
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3 (Pages 6 to 9)

	Page 10		Page 12
1	A. Okay.	1	A. Okay.
2	Q. And you are here today to provide	2	Q. Okay. So let's try not to speak over each
3	deposition testimony related to some experiments	3	other, all right?
4	that you worked on as an employee of Exponent in	4	A. Okay.
5	collaboration with Dr. MacLean, who was named by	5	Q. So when I'm talking, I'll try to refrain
6	Ethicon and Johnson & Johnson as an expert in this	6	from asking another question, and I ask that if I'm
7	case; is that is my understanding correct?	7	asking you a question, that you refrain from
8	A. That's my understanding.	8	answering the question until I'm finished with my
9	MR. HUTCHINSON: Dan, stop for just one	9	question, okay?
10	second.	10	A. Okay.
11	(Whereupon, a brief discussion off the	11	Q. And you are doing a good job so far.
12	record.)	12	Speak audibly, with a you know, a "yes"
13	MR. HUTCHINSON: My computer was not doing	13	or a "no." Don't shake your head yes or no because
14	realtime, but we have it fixed now. Sorry about	14	the court reporter can't document that accurately or
15	that.	15	completely, okay?
16	MR. THORNBURGH: Okay. Okay. All right.	16	A. I understand.
17	You can see the technical problems are everywhere	17	Q. If you answer a question, I'm going to
18	today.	18	assume that you understand the question, okay?
19	MR. HUTCHINSON: Not just on your end,	19	A. Okay.
20	huh?	20	Q. If you don't understand a question, make
21	MR. THORNBURGH: You know what, it's not	21	sure that you ask me or ask me to rephrase it.
22	on my end, actually, it's on the other end, because	22	Otherwise, if you answer it, I'm going to just
23	you guys can see us and hear us, but we can't see or	23	assume that you understood and we're going to move
24	hear you. So the it's got to be on that end.	24	forward to the next question
25	MR. HUTCHINSON: Actually, no actually,	25	A. Okay.
	Page 11		Page 13
			1490 13
1	no, we cannot see we cannot see you guys either.	1	Q okay?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	We can only hear you on the speakerphone.  MR. THORNBURGH: Okay. Well okay. Okay. Well, whatever the case may be, there is technical problems. We'll figure that out later on. But let's get going.  Q. Dr. Benight, have you given a deposition prior to today?  A. No.  Q. Okay. I imagine you are a little bit nervous?  MR. HUTCHINSON: Object to form. BY MR. THORNBURGH:  Q. I think it's natural to be a little anxious and nervous about a deposition.  Are you a little bit nervous and anxious about your deposition today?  MR. HUTCHINSON: The same objection.  You can answer.  THE WITNESS: No, sir. BY MR. THORNBURGH: Q. Okay. Well, let me give you let me	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q okay?  If you need a break at any time, just let me know, okay?  A. Okay.  Q. We'll it's not a marathon, so we'll take a break any time you need a break.  The only caveat to that instruction is if I have a question pending, I ask that you answer the question that is pending before you ask for a break, okay?  A. Okay.  Q. Now, I don't want to spend too much time going over your background, training and experience, but let's talk just briefly about your educational background.  I understand that you went to the University of Washington for school; is that correct?  A. I have a Ph.D. degree in chemistry from the University of Washington.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	We can only hear you on the speakerphone.  MR. THORNBURGH: Okay. Well okay. Okay. Well, whatever the case may be, there is technical problems. We'll figure that out later on. But let's get going.  Q. Dr. Benight, have you given a deposition prior to today?  A. No.  Q. Okay. I imagine you are a little bit nervous?  MR. HUTCHINSON: Object to form. BY MR. THORNBURGH:  Q. I think it's natural to be a little anxious and nervous about a deposition.  Are you a little bit nervous and anxious about your deposition today?  MR. HUTCHINSON: The same objection.  You can answer.  THE WITNESS: No, sir. BY MR. THORNBURGH: Q. Okay. Well, let me give you let me	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q okay?  If you need a break at any time, just let me know, okay?  A. Okay.  Q. We'll it's not a marathon, so we'll take a break any time you need a break.  The only caveat to that instruction is if I have a question pending, I ask that you answer the question that is pending before you ask for a break, okay?  A. Okay.  Q. Now, I don't want to spend too much time going over your background, training and experience, but let's talk just briefly about your educational background.  I understand that you went to the University of Washington for school; is that correct?  A. I have a Ph.D. degree in chemistry from the University of Washington.  Q. Okay. And I think you also have an undergraduate chemistry degree, too; is that

#### Page 14 Page 16 1 Q. Okay. And then you went back to Stanford 1 A. I learned to record experiments in my 2 University after you received your Ph.D. from 2 undergraduate and graduate work. 3 Washington University and got another degree; is 3 Q. In a laboratory notebook or a research 4 4 that correct? notebook, right? 5 5 A. I completed two years of postdoctoral A. I --6 training. There is no degree associated with that 6 MR. HUTCHINSON: Object to form. 7 7 training, but yes, that was at Stanford. THE WITNESS: I learned to keep a record 8 Q. Okay. And just talk a little bit about 8 of the experiments performed during those studies. 9 your work experience. 9 BY MR. THORNBURGH: 10 10 I -- my understanding from looking, I Q. Do you agree with me that a lab notebook 11 think, at your resumé on the Exponent website is 11 is intended to ensure the quality and integrity of 12 12 data generated during the scientific experiment? that you -- or maybe just some research on the 13 internet, but you worked for Dalton Research Group 13 MR. HUTCHINSON: Object to form. 14 14 at the University of Washington; is that accurate? THE WITNESS: A lab notebook is a record 15 A. Yes. 15 of the experiments performed for that particular 16 16 Q. Okay. And after you finished your 17 17 postdoctorate degree -- or postdoctorate work at BY MR. THORNBURGH: Stanford, what did you do in terms of work and 18 Q. And the -- and the intended 18 19 employment? 19 purpose is to ensure that the -- is to ensure the 20 20 quality and integrity of the data generated during I started working at Exponent. 21 Q. Okay. And how long have you been at 21 that scientific experiment, correct? 22 22 Exponent? A. It's meant to be a recording of the 23 23 A. A little over a year and a half. experiments performed so that someone else can 24 24 Q. Now, let me ask you some questions, just repeat the work. 25 some general questions before I get into the 25 O. And a lab notebook documents the research Page 15 Page 17 1 specifics of your involvement in the experiments 1 that has been conducted during the experiment, 2 2 that you performed at Exponent in this case. correct? 3 Is it fair to say -- I did some research 3 A. Yes. 4 of you on the internet, and I noticed that you 4 Q. And do you agree with me that a lab 5 worked at Dalton labs and -- during -- well, let 5 notebook ensures that the work that is done is done 6 6 me -- strike that. in accordance with agreed-upon procedures, 7 7 Isn't it -- is it accurate to say that at protocols, and controls of the experiment? 8 8 Dalton labs you were required to maintain a lab A. Work recorded as part of the experiments 9 notebook to document all research and experiments 9 performed in the lab notebook is that, it's a record 10 that were being performed at Dalton Research Group? 10 of the experiments performed as part of a project. 11 A. While I worked in Larry Dalton's group, I 11 Q. Right. And before that project or 12 kept a record of all the experiments performed in a 12 experiment starts, certain protocols, procedures, 13 13 lab notebook. and controls are put into place, correct? 14 Q. Okay. And that was something you learned, 14 A. It depends on the work being performed. 15 going back to your undergraduate and graduate 15 Q. Okay. Well, when would -- prior to an 16 studies, is recording your own results or your 16 experiment being done, what type of work would a --17 experiments and the data from those experiments and 17 would you receive a -- strike that. 18 the steps and processes taken during those 18 Let me -- I'll withdraw that question. 19 19 experience -- experiments in a lab notebook, You said it -- it depends on the type of 20 20 correct? work being performed. 21 21 A. That was the process for the Dalton What do you mean by that? 22 Research Group at the time. 22 A. If you are doing an experiment, you record 23 Q. All right. And that's the process that 23 the process for that experiment in a record of the 24 you actually learned to undertake in your 24 experiment. You keep a record of it. 25 25 undergraduate and graduate studies as well, correct? Q. Right. And -- right. And by "process,"

#### Page 18 Page 20 1 that's the protocols that are established before the 1 regarding a protocol that should be followed in the 2 experiment is started, correct? 2 UV photooxidation phase of your experiment? 3 A. It depends on the experiment. 3 A. A QUV is a common way to induce changes in 4 polymers, including oxidation. There are hundreds Q. Okay. What do you mean by that? 4 5 5 A. For example, in graduate school, I of papers on the subject, and so in a fundamental 6 6 synthesized a compound. I would write the reaction perspective, we followed that. 7 7 down in a laboratory notebook prior to starting the Q. Okay. So listen to my question, because 8 8 I'm trying to make it really simple and clear. 9 Q. Yeah, but -- but I'm not talking about the 9 Before you started the QUV experiment that 10 10 lab notebook anymore. So I apologize if my question we're going to talk to in more detail in a moment, 11 11 were you provided with a written protocol that you 12 12 were to follow? My question is, before the experiment gets 13 MR. HUTCHINSON: Object to form and asked 13 A. Well, you are breaking up a little bit. 14 14 and answered. 15 Q. Yeah. So let me -- let me try this again. 15 Dan, just so you'll know, the -- there is 16 Can you hear me better now? 16 something coming up on the screen. Are you guys 17 17 A. Yes. trying to call in again? 18 MR. THORNBURGH: I don't see that from my 18 Q. Okay. So I am -- I am trying to make sure 19 19 that you understand my question. end, but somebody might on that end. I don't know. 20 Generally speaking, when you intend to 20 My screen is blank. It's not even on. 21 21 conduct some sort of experiment, is it true that MR. HUTCHINSON: Okay. So you all aren't 22 22 trying to call in anymore; is that right? there are written protocols that are followed 23 throughout the -- throughout the experiment that is 23 MR. THORNBURGH: That's right. 24 24 MR. HUTCHINSON: Okay. being conducted? 25 25 MR. HUTCHINSON: Object to form. Page 19 Page 21 1 THE WITNESS: When you conduct an 1 BY MR. THORNBURGH: 2 2 experiment, you want to keep a record of the Q. So, Doctor, sorry for the interruption. 3 experiment that is performed. 3 I'm going to try to make this very simple. 4 BY MR. THORNBURGH: 4 My question to you is, before the QUV 5 5 Q. But my question is, before the -- before procedure was conducted, were you provided with a 6 6 the record -- or before the experiment is started written protocol that you were supposed to follow? 7 7 and before you are keeping a record, in your lab A. A QUV a common way to induce changes in 8 8 polymers, including oxidation, and we followed the notebook or elsewhere, isn't it true that you begin 9 a study with a study protocol? 9 hundreds of literature articles that covered that. 10 A. It depends on the experiment being 10 Q. Okay. So you were not provided with a 11 performed. 11 written protocol, correct? 12 12 Q. Let me -- let me ask you this MR. HUTCHINSON: Objection. Been asked 13 13 and answered, Counsel. Move on. 14 Before you began the experiment in this 14 MR. THORNBURGH: It's a simple question. 15 case, were you provided with a written protocol? 15 MR. HUTCHINSON: Well, she's answered it. 16 A. We followed the protocols of the 16 MR. THORNBURGH: Excuse me. Excuse me. 17 plaintiffs' experts, Dr. Guelcher and Dr. Iakovlev, 17 Q. Dr. Benight, did Dr. MacLean or anybody else from Exponent provide you with a written 18 in the performance of these experiments. 18 19 19 protocol regarding the QUV procedure? Q. Well, but neither one of those experts 20 MR. HUTCHINSON: Same objection. 2.0 performed UV photooxidation, correct? 21 21 A. We performed a simple set of control You can answer, Dr. -- Dr. Benight, if you 22 experiments that the plaintiffs' experts did not in 22 23 23 THE WITNESS: We followed a protocol that this study. 24 Q. Right. And so was there a written 24 is in hundreds of literature papers on QUV, which is 25 25 a common way to induce changes in polymers, protocol on -- prior to beginning the experiment

	Page 22		Page 24
1	including oxidation.	1	MR. HUTCHINSON: what she followed.
2	BY MR. THORNBURGH:	2	MR. THORNBURGH: Chad, Chad, your
3	Q. Okay. So you weren't provided with a	3	objection is noted. I would prefer that you don't
4	written protocol that synthesized those hundreds of	4	speak, and that's part of the rules here.
5	peer-reviewed publications regarding protocols to	5	Q. Doctor, is it I'm just trying to
6	follow for QUV photooxidation, correct?	6	understand your testimony.
7	MR. HUTCHINSON: Same objection.	7	Is it your testimony that you followed the
8	THE WITNESS: Can you repeat the question?	8	protocol regarding QUV photooxidation of synthetic
9	MR. THORNBURGH: Madam Court Reporter, can	9	polypropylene meshes that was prepared and presented
10	you read back the question, please?	10	by Dr. Reitman at a conference?
11	(Whereupon, the reporter read the record	11	A. Well, we followed hundreds of literature
12	as follows:	12	articles that recount QUV exposure as a way to
13	"Question: Okay. So you weren't provided	13	induce changes in polymers, including oxidation.
14	with a written protocol that synthesized those	14	As for a specific what you are
15	hundreds of peer-reviewed publications regarding	15	referring to as protocol, I we used that of
16	protocols to follow for QUV photooxidation,	16	Dr. Reitman, et al., in a conference presentation.
17	correct?")	17	Q. Okay. Was Dr. Reitman's protocol provided
18	THE WITNESS: For a specific protocol, we	18	to you as the written protocol that should be
19	followed the protocol of Dr. Reitman, et al., given	19	followed in your experiment using QUV radiation in
20	in a conference presentation.	20	this case?
21	BY MR. THORNBURGH:	21	A. That is the specific conditions that we
22	Q. Okay. And Dr. Reitman is another	22	used.
23	scientist at Exponent who has been retained by	23	Q. Okay. And when was that protocol provided
24	Butler Snow and other law firms to represent or	24	to you?
25	to serve as an expert in mesh litigation; is that	25	A. I don't recall.
	Page 23		
	1496 23		Page 25
1		1	
1 2	your understanding?	1 2	Q. Did you receive it via e-mail from
2	your understanding?  MR. HUTCHINSON: Object to form. Dan,	2	Q. Did you receive it via e-mail from Dr. MacLean, or how did that how did you receive
2	your understanding?  MR. HUTCHINSON: Object to form. Dan, that mischaracterizes the evidence.  THE WITNESS: Dr. Reitman is also an	2 3	Q. Did you receive it via e-mail from Dr. MacLean, or how did that how did you receive that? A. I believe that it was a conference
2 3 4	your understanding?  MR. HUTCHINSON: Object to form. Dan, that mischaracterizes the evidence.	2 3 4	Q. Did you receive it via e-mail from Dr. MacLean, or how did that how did you receive that?
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#### Page 26 Page 28 Q. So approximately two years before your 1 doctors who have -- who have provided testimony or 2 experiment in this case? 2 have done experiments on behalf of Exponent in this 3 A. That's correct. 3 litigation who have -- who have maintained a lab 4 Q. Okay. And you don't have a copy of the 4 notebook that was provided to that scientist from 5 protocol that was discussed by Dr. Reitman in your 5 Exponent to record their experience -- their 6 6 possession today, correct? experiment. 7 7 A. The protocol is given in Dr. MacLean's Were you provided with an 8 8 Exponent-specific lab notebook to use in this case? expert report. 9 Q. Well, but my question is, what -- so let 9 MR. HUTCHINSON: Object to form. 10 10 me back up a little bit. We'll get to it -- we'll THE WITNESS: It sounds like you are 11 get to -- we'll come back to this question later on, 11 referring to their own process. I kept a record of 12 12 I think -- actually, this topic later on. Let's all the experiments performed on Exponent's servers. 13 13 move on and talk about some other issues. BY MR. THORNBURGH: 14 Doctor, when you -- let me ask you this 14 Q. Okay. So you didn't use -- strike that. 15 15 question. When you were in your undergraduate --16 16 Do you agree that maintaining a lab strike that. 17 17 notebook documenting the experiments performed helps When you were at -- working at Dalton --18 in the event that your data may have to be explained 18 when you were working at Dalton Research Group at 19 or defended or reconstructed or repeated without 19 the University of Washington, do you agree that a 2.0 your assistance by some other person? 20 lab notebook should be written as a diary, where all 21 A. Keeping a record of the experiments 21 the information about the work is recorded as it is 22 22 performed is important so that another reasonable done, contemporaneous with the experiment that you 23 scientist can repeat the work. 23 are performing? 24 Q. So a lab notebook allows others -- if I 24 MR. HUTCHINSON: Object to form. 25 25 understand your testimony correctly, others to THE WITNESS: That was part of the process Page 27 Page 29 for that lab, keeping a record of the experiments 1 understand what you did in your experiment and -- so 1 2 2 that they can repeat or -- or attempt to reproduce performed. 3 your results in their own study; is that accurate? 3 BY MR. THORNBURGH: 4 A. A record of experiments performed serves 4 Q. You used a different process in this 5 5 experiment than the process of recordkeeping and lab 6 6 Q. Okay. So you seem to be distinguishing notebook recording that you used when you worked for 7 7 from a lab notebook and a record of the experiment Dalton Research Group, correct? 8 8 A. For these set of experiments that are the 9 Did you not keep a lab notebook in this 9 basis for Dr. MacLean's report, I kept a record of 10 case? 10 the experiments performed electronically. It's an 11 A. I kept a record of all of the experiments 11 electronic lab notebook. 12 12 performed, and that's been provided to you Q. Okay. So where is your electronic lab 13 13 electronically. notebook? 14 Q. Okay. But you didn't have -- you didn't 14 A. That's been provided to you 15 use the Exponent lab notebook to record your data 15 electronically. 16 and the steps that you took during your experiment 16 Q. Well, how would I identify what your -- or 17 in a notebook that is designated for research, 17 where your electronic lab notebook is within the production of documents that were provided to me? 18 correct? 18 19 MR. HUTCHINSON: Object to form. 19 A. I can point those out to you, sir, if you 20 MR. THORNBURGH: Let me ask -- let me ask 20 would like. 21 21 that question better. Q. Okay. So let me -- let me try to 22 O. Doctor, I have taken other Exponent 22 understand. 23 scientists' depositions before today, so you are not 23 So what are you representing to this Court 24 my first Exponent witness. 24 was the lab -- electronic lab notebook that you kept 25 25 And I have taken, you know, several contemporaneous with the study that you performed in

	Page 30		Page 32
1	this case?	1	MR. THORNBURGH: Well, I assume that the
2	A. I can point out those documents to you	2	court reporter has some exhibit stickers. And so we
3	within the production.	3	keep this in sort of do this in organized
4	MR. THORNBURGH: Madam Court Reporter, can	4	fashion, I'm going to ask that she re-mark that
5	you find the document that was in the index as	5	document as Exhibit No. 1 with a new sticker.
6	Number 4? It's the it's the grid.	6	(Whereupon, a brief discussion off the
7	(Whereupon, a brief discussion off the	7	record.)
8	record.)	8	(Whereupon, Exhibit 1 was marked for
9	MR. THORNBURGH: Well, we're going to	9	identification.)
10	finish we'll finish this line of questioning,	10	(Whereupon, Exhibit 2 was marked for
11	Chad, and then I'll I'll do it as quick as I can,	11	identification.)
12	but I probably have a few questions just to finish	12	BY MR. THORNBURGH:
13	this line of questioning, and then I'll let you	13	Q. Dr. Benight, you have Exhibit No. 1 in
14	we'll take a break.	14	front of you, and I just want to make sure we're all
15	THE WITNESS: Is there a question?	15	on the same page.
16	BY MR. THORNBURGH:	16	What is what what document do you
17	Q. Yeah, my you had indicated that you	17	have in front of you currently as Exhibit No. 1?
18	kept an electronic lab notebook within the Exponent	18	A. It is a table that contains file names of
19	databases, or at least some sort of electronic	19	the microscopy images, embedding material, type of
20	notebook, and I asked you to point out where those	20	light, whether treated to induce oxidation, question
21	notebooks are.	21	mark, underwent staining protocol, question mark,
22	And rather than go through the entire	22	and miscellaneous notes.
23	production, I'm going to direct you to a couple	23	Q. Okay.
24	documents and ask you if certain documents are the	24	A. This document is printed on double-sided
25	documents that you are alleging are your electronic	25	paper and is
	Page 31		
			Page 33
1	lab notebooks, okay?	1	Q. I think you have
2	lab notebooks, okay?  A. Okay.	2	<ul><li>Q. I think you have</li><li>A. I'm not finished, sir.</li></ul>
2	lab notebooks, okay?  A. Okay.  Q. So I think the court reporter was going to	2 3	<ul><li>Q. I think you have</li><li>A. I'm not finished, sir.</li><li> seven pages.</li></ul>
2 3 4	lab notebooks, okay?  A. Okay.  Q. So I think the court reporter was going to pull out Document No. 4.	2 3 4	<ul><li>Q. I think you have</li><li>A. I'm not finished, sir.</li><li> seven pages.</li><li>Q. Okay. It's you have sufficiently</li></ul>
2 3 4 5	lab notebooks, okay?  A. Okay.  Q. So I think the court reporter was going to pull out Document No. 4.  MR. THORNBURGH: Have you done that	2 3 4 5	<ul> <li>Q. I think you have</li> <li>A. I'm not finished, sir.</li> <li> seven pages.</li> <li>Q. Okay. It's you have sufficiently identified it in terms of what it looks like, but do</li> </ul>
2 3 4 5 6	lab notebooks, okay?  A. Okay. Q. So I think the court reporter was going to pull out Document No. 4.  MR. THORNBURGH: Have you done that already, Madam Court Reporter?	2 3 4 5 6	<ul> <li>Q. I think you have</li> <li>A. I'm not finished, sir.</li> <li> seven pages.</li> <li>Q. Okay. It's you have sufficiently identified it in terms of what it looks like, but do you recognize this document as a document that you</li> </ul>
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	Page 34		Page 36
1	Q. Please answer my question.	1	experiments that were performed by you at Exponent;
2	A. This is part of the record of experiments	2	is that correct?
3	performed and one of the documents provided to you	3	A. Yes.
4	electronically.	4	Q. Okay. Now, when did you create this grid
5	Q. Are you representing to the Court that	5	of information?
6	this document is part of your electronic lab	6	A. This document was created the day before
7	notebook?	7	Dr. MacLean's deposition.
8	A. This document is part of the experiments	8	Q. Okay. So this wasn't kept contemporaneous
9	performed. It is a record of those experiments	9	with the experiments that you performed in this
10	performed.	10	case, correct?
11	Q. Okay. And let's go ahead and mark	11	A. This specific document was created after
12	Document No. 5 as Exhibit No. 2.	12	the experiments were performed.
13	MR. HUTCHINSON: All right. Hey, Dan,	13	Q. Let's back up let's back up a little
14	we're going to take a quick break. I'll be right	14	bit.
15	back.	15	And I want to know, when did you first get
16	MR. THORNBURGH: I'm almost finished with	16	involved in this case?
17	this line of questioning.	17	A. I don't know the exact date. Maybe a
18	MR. HUTCHINSON: I understand that, but I	18	couple months ago.
19	need to take a quick break.	19	Q. Do you recall providing some time as part
20	THE WITNESS: I would like to take a	20	of an invoice that was submitted to to Butler
21	break.	21	Snow for the work performed in this case?
22	MR. HUTCHINSON: And we'll be right and	22	A. Is there a particular invoice that you are
23	I'll be right back.	23	referring to?
24	MR. THORNBURGH: No, actually, we're going	24	Q. My question was, do you recall providing
25	to keep on going. I'm going to ask this next	25	some information about time spent in this case so
	Dama 25		
	Page 35		Page 37
1	question, and then we can take a break. Okay?	1	Page 37 that your work could be invoiced to Butler Snow?
1 2		1 2	
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2	question, and then we can take a break. Okay? Hello.	2	that your work could be invoiced to Butler Snow?  A. Yes, I believe I have recorded time
2	question, and then we can take a break. Okay? Hello. THE REPORTER: They have left the room.	2 3	that your work could be invoiced to Butler Snow?  A. Yes, I believe I have recorded time pertaining to this case.
2 3 4	question, and then we can take a break. Okay? Hello. THE REPORTER: They have left the room. THE VIDEOGRAPHER: Going off the record at	2 3 4	that your work could be invoiced to Butler Snow?  A. Yes, I believe I have recorded time pertaining to this case.  Q. And I'll represent to you that the first invoice was submitted in July of 2015 and a second invoice was submitted in August of 2015.
2 3 4 5	question, and then we can take a break. Okay? Hello. THE REPORTER: They have left the room. THE VIDEOGRAPHER: Going off the record at 12:16.	2 3 4 5	that your work could be invoiced to Butler Snow?  A. Yes, I believe I have recorded time pertaining to this case.  Q. And I'll represent to you that the first invoice was submitted in July of 2015 and a second invoice was submitted in August of 2015.  Does it does that sound about accurate,
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	question, and then we can take a break. Okay? Hello.  THE REPORTER: They have left the room. THE VIDEOGRAPHER: Going off the record at 12:16.  (Whereupon, a brief recess was taken.) THE VIDEOGRAPHER: Back on the record at 12:20.  MR. HUTCHINSON: Okay, Dan. We're back. BY MR. THORNBURGH: Q. Dr. Benight Doctor MR. THORNBURGH: I know. Q. Dr. Benight, before we went off the record, we looked at and marked a an exhibit as Exhibit No. 1, which was a grid containing some information about some of the samples that were looked at during your experiment.  I'll represent to the Court and for the record that this was sent to me, and it was named "Microscopy Image Index" and was produced by Dr. MacLean during his deposition on September 29th, 2015.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	that your work could be invoiced to Butler Snow?  A. Yes, I believe I have recorded time pertaining to this case.  Q. And I'll represent to you that the first invoice was submitted in July of 2015 and a second invoice was submitted in August of 2015.  Does it does that sound about accurate, that sometime prior to or in July or prior to just prior to July, you became involved in this litigation?  A. Yes.  Q. And at some point, did you receive a TVT exemplar to use in your experiments?  A. Yes.  Q. When did you receive the TVT exemplar?  A. I don't recall.  Q. Did you document that in a lab notebook somewhere?  A. It's recorded in Exponent's internal quality assurance system.  Q. Okay. Have you produced Exponent's internal quality assurance program as part of the
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	question, and then we can take a break. Okay? Hello.  THE REPORTER: They have left the room. THE VIDEOGRAPHER: Going off the record at 12:16.  (Whereupon, a brief recess was taken.) THE VIDEOGRAPHER: Back on the record at 12:20.  MR. HUTCHINSON: Okay, Dan. We're back. BY MR. THORNBURGH: Q. Dr. Benight Doctor MR. THORNBURGH: I know. Q. Dr. Benight, before we went off the record, we looked at and marked a an exhibit as Exhibit No. 1, which was a grid containing some information about some of the samples that were looked at during your experiment.  I'll represent to the Court and for the record that this was sent to me, and it was named "Microscopy Image Index" and was produced by Dr. MacLean during his deposition on September 29th, 2015.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	that your work could be invoiced to Butler Snow?  A. Yes, I believe I have recorded time pertaining to this case.  Q. And I'll represent to you that the first invoice was submitted in July of 2015 and a second invoice was submitted in August of 2015.  Does it does that sound about accurate, that sometime prior to or in July or prior to just prior to July, you became involved in this litigation?  A. Yes.  Q. And at some point, did you receive a TVT exemplar to use in your experiments?  A. Yes.  Q. When did you receive the TVT exemplar?  A. I don't recall.  Q. Did you document that in a lab notebook somewhere?  A. It's recorded in Exponent's internal quality assurance system.  Q. Okay. Have you produced Exponent's internal quality assurance program as part of the

1 Q. Okay. So I'm is there any document that has been produced in this case to me that is identifies for me when you would have received the TVT exemplar product?  A. I don't know. I can look through a couple of them throughout today, and if you see any anyplace well, actually, strike that.  I cat me I'll represent to you that there is no document that has been produced that is dentifies when you would have received the TVT exemplar was received the TVT exemplar that have looked at all the documents that have been produced by you, okay?  BY MR. THORNBURGH:  I MR. HUTCHINSON: Object to form.  THE WITNESS: Can you repeat the question?  PMR. THORNBURGH:  MR. HUTCHINSON: I'm sorry, Dan. Is that a question or not.  MR. THORNBURGH: No, I'm just I'm  Page 39  I just I'm just making that representation.  Q. If you think if you believe that there is no document that you would have received the TVT exemplar fath has been produced by would have received the TVT exemplar fath has been produced to make that provides me with a date that jou occived the TVT exemplar fath has been produced that fath that there is no document that recorded that provides me with a date that jou would have received the TVT exemplar fath has been produced to me, let me know.  Otherwise, I'm going to represent to you don't know that work for Exponent?  A. I don't recall when I exactly received the TVT exemplar?  A. I don't recall when I exactly received the TVT exemplar fath has been produced to me, let me know.  Otherwise, I'm going to represent to you dould have received the TVT exemplar (a. I). TVT was cut into smaller samples.  Q. Okay. When did you divide the TVT exemplar fath has been produced to me, let me know.  Otherwise, I'm going to represent to you don't know that you are referring to. I was not been is specific Exponent has available to its scientists, haven't you?  A. The TVT exemplar was received the TVT exemplar was received the TVT exemplar was received the two and the province of the experiments was lead for t		Page 38		Page 40
that has been produced in this case to me that didentifies for me when you would have received the TVT exemplar product?  A. I don't know hat you are referring to. I have not been issued a specific Exponent lab notebook. I kept a record of the experiments performed for this project electronically.  MR. THORNBURGH: C. Here — I'll represent to you that there is not document that has been produced that identifies when you would have received the TVT exemplar, okay? Do you understand that representation?  MR. HUTCHINSON: Object to form. THE WITNESS: Scan you repeat the question?  MR. HUTCHINSON: I'm sorry, Dan. Is that a — I'm having trouble understanding if that's a question or not.  MR. HUTCHINSON: I'm sorry, Dan. Is that a — I'm having trouble understanding if that's a question or not.  MR. THORNBURGH: A. The TVT exemplar was received by you, okay? MR. HUTCHINSON: I'm sorry, Dan. Is that a — I'm having trouble understanding if that's a question or not.  MR. THORNBURGH: A. The TVT exemplar was received the TVT exemplar that has been produced to me, let me know.  MR. THORNBURGH: A. The TVT exemplar was received the TVT exemplar that has been produced to me, let me know.  Page 39  1 just — Fm just making that representation. Q. If you think — if you believe that there is is some document that recorded — that provides me with a date that identifies when you would have received the TVT exemplar, okay? So, Doctor, do you know approximately when you would have received the TVT exemplar, okay?  Q. And you didn't record in a sort of — what I'll put under the produced that the condent of the project electronically.  Try was cut into smaller samples.  Page 41  TVT was cut into smaller samples.  Page 41  TVT was cut into smaller samples.  Q. Dividing the exemplar TVT device into — into separate samples?  A. Tof the Everyment you. A. The TVT exemplar device divided into multiple samples.  Q. Dividing the exemplar tow of the project did as well.  Q. Okay. When did you divide the TVT creamplar you are referring to.  Q. Dividin	1	O. Okay. So I'm is there any document	1	notebooks that Exponent has available to its
3 A. I don't know what you are referring to . I 4 have not been issued a specific Exponent lab 5 A. I don't know what you are referring to . I 5 A. Or Well, were going to look through a couple 6 production documents. 7 Q. Well, were going to look through a couple 8 of them throughout today, and if you see any 9 anyplace – well, actually, strike that. 10 Let me – I'll represent to you that there 11 is no document that has been produced that 12 identifies when you would have received the TVT 13 exemplar, okay? Do you understand that 14 representation? 15 MR, HUTCHINSON: Object to form. 16 THE WITNESS: Can you repeat the question? 17 BY MR, THORNBURGH: 18 Q. I'll represent to you that I have looked 19 at all the documents that have been produced by 19 Exponent in this litigation, and nothing identifies 21 when the TVT exemplar was received by you, okay? 22 MR, HUTCHINSON: I'm sorry, Dan. Is that 23 a – I'm having trouble understanding if that's a 24 question or not. 25 MR, THORNBURGH: No, I'm just – I'm  Page 39 2			2	
4 TVT exemplar product? 5 A. I don't know. I can look through the 6 production documents. 7 Q. Well, we're going to look through a couple 8 of them throughout today, and if you see any 9 anyplace – well, actually, strike that. 10 Let me – I'll represent to you that there 11 is no document that has been produced that 12 identifies when you would have received the TVT 13 exemplar, okay? Do you understand that 14 representation? 15 MR. HUTCHINSON: Object to form. 16 THE WITNESS: Can you repeat the question? 17 BY MR. THORNBURGH: 18 Q. Fil represent to you that I have looked 19 at all the documents that have been produced by 20 Exponent in this litigation, and nothing identifies 21 when the TVT exemplar was received by you, okay? 22 MR. HUTCHINSON: Two sorry, Dan. Is that 23 question or not. 25 MR. THORNBURGH: No, I'm just – I'm 26 MR. THORNBURGH: No, I'm just – I'm 27 pow would have received the TVT exemplar that has 28 been produced to me, let me know. 39 would have received the TVT exemplar, okay? 40 So, Doctor, do you know approximately when provides me with a date that identifies when you would have received the TVT exemplar as provides me with a date that identifies when you would have received the TVT exemplar? 30 A. I don't recall exactly. 31 Page 41 32 A. I don't recall exactly. 32 A. I don't recall exactly. 33 A. I don't recall exactly. 44 A. For the purposes of the experiments that are summarized in Dr. MacLean's expert report, the 45 TVT was cut into smaller samples. 46 Q. Dividing the exemplar TVT device into — 47 into separate samples? 48 A. I did. Also, others that were working on the provides me with a date that identifies when you would have received the TVT exemplar? 49 Q. And you didn't record in a sort of — what 40 Price and the first of the care of the experiments that would have been — that division or separation or cutting of the TVT exemplar would have teachy do you money proximately when you would have received the TVT exemplar, or a series when you would have received the TVT exemplar, or			3	
5 A. I don't know. I can look through the 6 production documents. 7 Q. Well, we're going to look through a couple 8 of them throughout today, and if you see any 9 anyplace - well, actually, strike that. 10 Let me - I'll represent to you that there 11 is no document that has been produced that 12 identifies when you would have received the TVT 13 exemplar, okay? Do you understand that 14 representation? 15 MR. HUTCHINSON: Object to form. 16 THE WITNESS: Can you repeat the question? 17 BY MR. THORNBURGH: 18 Q. I'll represent to you that I have looked 19 at all the documents that have been produced by 19 Exponent in this litigation, and nothing identifies 21 when the TVT exemplar was received by you, okay? 22 MR. HUTCHINSON: I'm sorry, Dan. Is that 23 a - I'm having trouble understanding if that's a 24 question or not. 25 MR. THORNBURGH: No, I'm just I'm 26 provides me with a date that identifies when you 27 would have received the TVT exemplar, okay? 28 been produced to me, let me know. 29 would have received the TVT exemplar (a) 20 Chayw would have received the TVT exemplar (b) 21 pust I'm just making that representation. 22 Q. If you think if you believe that thee 23 is some document that you would have received the TVT exemplar (b) 29 would have received the TVT exemplar (b) 20 A. I don't recall exactly. 21 A. I don't recall exactly. 22 A. I don't recall when I exactly received the 23 TVT exemplar you are referring to. 24 Q. All oyu divide the TVT exemplar, okay? 25 Lipid a traditional lab horebook in the resported the record as follows: 26 Exponent in this litigation, and nothing identifies when you that there is no document that have been produced to me, let me know. 26 A. For the purposes of the experiments performed for this project electronically. 27 A. For the reporter read the record as follows: 28 A. The TVT exemplar would have received the TVT exemplar (b) 29 Color, when you over the reporter read the record as follows: 29 Color when the town of the experiments beperformed for this project el		<del>-</del>	4	•
6 production documents.   6   Page 39	5		5	
O. Well, we're going to look through a couple of them throughout today, and if you see any applace — well, actually, strike that.  Detribute — I'll represent to you that there is no document that has been produced that it representation?  MR. HUTCHINSON: Object to form.  MR. HUTCHINSON: I have looked at all the documents that have been produced by on the world in this litigation, and nothing identifies when you would have received the TVT exemplar was used for the experiments served in Dr. MacLean's expert report.  A. For TVT exemplar was used for the experiments covered in Dr. MacLean's expert report.  A. For the purposes of the experiments that are summarized in Dr. MacLean's expert report, the strength of the provides that there is no document that recorded the date that you received the TVT exemplar, okay?  A. I don't recall exactly.  A. I don't recall exactly.  D. O and you didn't record in a sort of — what I lill a la notebook for death and the provides did a specific Exponent lab notebook. I kept a record of the experiments promed for this project electronically.")  BY MR. THORNBURGH:  D. Obstor, when you received the TVT exemplar was used for the experiments covered in Dr. MacLean's expert report.  D. Okay. Was the TVT exemplar that has been produced to me, let me know.  Otherwise, I'm going to represent to you that there is no document that recorded the date that you would have received the TVT exemplar, leaving the experiments semples?  A. I don't recall when I exactly received the try in the project did as well.  D. O migust looking for a fair estimation.  Po Q. And you didn't record in a sort of — what I'll call a traditional lab notebook for date that you would have received				
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12   identifies when you would have received the TVT   exemplar, okay? Do you understand that   13   exemplar, okay? Do you understand that   14   representation?   14   representation?   15   MR. HUTCHINSON: Object to form.   16   MR. HUTCHINSON: Object to form.   17   MR. THORNBURGH:   17   Q. Dottor, when you received the TVT exemplar was received by you, okay?   18   MR. THORNBURGH:   18   MR. THORNBURGH:   19   MR. HUTCHINSON: I'm sorry, Dan. Is that a - I'm having trouble understanding if that's a   19   question or not.   12   MR. THORNBURGH: No, I'm just - I'm   19   just - I'm just making that representation.   1   Just - I'm just making that representation.   2   Q. If you think - if you believe that there is some document that you would have received the TVT exemplar, okay?   10   So, Doctor, do you know approximately when you would have received the TVT exemplar?   12   A. Idon't recall exactly.   12   A. Idon't recall exactly.   13   Q. And you didn't record in a sort of - what   11   religion or the province of the mentited to a fair estimation.   14   If mentited to a fair estimation.   15   MR. HUTCHINSON: Object to form. Dan,   16   MR. HUTCHINSON: Object to form. Dan,   17   Variety protoces once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once you - go ahead.   A. The TVI exemplar was the next step in your process once	11		11	"Answer: I don't know what you are
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15 MR. HUTCHINSON: Object to form. 16 THE WITNESS: Can you repeat the question? 17 BY MR. THORNBURGH: 18 Q. I'll represent to you that I have looked 19 at all the documents that have been produced by 20 Exponent in this litigation, and nothing identifies 21 when the TVT exemplar was received by you, okay? 22 MR. HUTCHINSON: I'm sorry, Dan. Is that 23 a - I'm having trouble understanding if that's a 24 question or not. 25 MR. THORNBURGH: 26 MR. THORNBURGH: 27 MR. HUTCHINSON: I'm sorry, Dan. Is that 28 question or not. 29 MR. THORNBURGH: 20 MR. THORNBURGH: 21 when the TVT exemplar was received by you, okay? 22 MR. HUTCHINSON: I'm sorry, Dan. Is that 23 a - I'm having trouble understanding if that's a 24 question or not. 25 MR. THORNBURGH: 26 No. Page 39 27 MR. THORNBURGH: 28 A. For the purposes of the experiments that 29 are summarized in Dr. MacLean's expert report, the 29 A. I don't recall exactly. 30 So, Doctor, do you know approximately when 31 you would have received the TVT exemplar? 32 A. I did. Also, others that were working on 33 that there is no document that recorded that 34 provides me with a date that identifies when you 35 would have received the TVT exemplar? 36 Provides me with a date that identifies when you 36 No. Doctor, do you know approximately when 37 you would have received the TVT exemplar? 38 Provides me with a date that identifies when you 39 Would have received the TVT exemplar? 40 Provides me with a date that identifies when you 40 Would have received the TVT exemplar? 41 Provides me with a date that identifies when you 41 Provides me with a date that identifies when you 42 Provides me with a date that identifies when you 43 Provides me with a date that identifies when you 44 Provided in a well. 45 Provided in a well. 46 Provided in a well. 47 Provided in a well. 48 Provided in a well was a conducted by the project did as well. 49 Q. Okay. When did you divide the TVT exemplar you would have received the TVT exemplar you well have been that division or separation or cutting of the	14		14	
16 THE WITNESS: Can you repeat the question? 17 BY MR. THORNBURGH: 18 Q. I'll represent to you that I have looked 19 at all the documents that have been produced by 20 Exponent in this litigation, and nothing identifies 21 when the TVT exemplar was received by you, okay? 22 MR. HUTCHINSON: I'm sorry, Dan. Is that 23 a - I'm having trouble understanding if that's a 24 question or not. 25 MR. THORNBURGH: 26 Q. Okay. Was the TVT exemplar was used for the 27 expriments covered in Dr. MacLean's expert report. 28 Q. Okay. Was the TVT exemplar device divided into multiple samples? 29 A. For the purposes of the experiments that are summarized in Dr. MacLean's expert report, the 29 are summarized in Dr. MacLean's expert report. 20 All right. Did you perform that work for into separate samples. 21 TVT was cut into smaller samples. 22 Q. All right. Did you perform that work for into separate samples? 23 Exponent? 24 A. What work are you referring to? I'm not sure. 25 Unividing the exemplar TVT device into— 26 into separate samples? 27 A. I don't recall exactly. 28 A. I don't recall exactly. 39 C. I'm just looking for a fair estimation. 40 C. Okay. When did you do with it? What was the next step in your process once you go ahead. 4 A. The TVT exemplar was used for the experiments overed in Dr. MacLean's expert report. 4 C. Okay. Was the TVT exemplar that are summarized in Dr. MacLean's expert report. 4 TVT was cut into smaller samples. 4 Q. All right. Did you perform that work for into separate samples. 4 A. What work are you referring to? I'm not sure. 5 Q. Dividing the exemplar TVT device into— 5 into separate samples? 6 Q. Dividing the exemplar TVT device into— 6 into separate samples? 7 A. I did. Also, others that were working on the project did as well. 9 Q. Okay. When did you divide the TVT exemplar, oaky? 10 So, Doctor, do you know approximately when you would have received the TVT exemplar. 11 Q. Ald you divided trecord in a sort of what I'll call a traditional lab notebook the date that you would have receiv		-	15	
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Page 39  Page 41  1 just I'm just making that representation.  2 Q. If you think if you believe that there is some document that you would have recorded the date that you received the TVT exemplar that has been produced to me, let me know.  6 Otherwise, I'm going to represent to you that there is no document that recorded that provides me with a date that identifies when you would have received the TVT exemplar, okay?  8 provides me with a date that identifies when you would have received the TVT exemplar, okay?  9 would have received the TVT exemplar?  10 So, Doctor, do you know approximately when you would have received the TVT exemplar?  11 you would have received the TVT exemplar?  12 A. I don't recall exactly.  13 Q. I'm just looking for a fair estimation.  14 I'm entitled to a fair estimation.  15 A. I don't recall when I exactly received the TVT exemplar you are referring to.  16 TVT exemplar you are referring to.  17 Q. And you didn't record in a sort of what I'll call a traditional lab notebook the date that you what do you mean by "traditional lab notebook"? If  10 If was cut into smaller samples.  2 Q. All right. Did you perform that work for Exponent?  A. What work are you referring to? I'm not sure.  4 A. What work are you referring to? I'm not sure.  5 sure.  Q. Dividing the exemplar TVT device into into separate samples?  A. I did. Also, others that were working on the project did as well.  Q. Okay. When did you divide the TVT exemplar device?  A. For these experiments, we cut the samples before we did the UV and chemically oxidized protocol exposure.  12 Q. Okay. My question was, do you know precisely when that would have been that division or separation or cutting of the TVT exemplar would have taken place?  17 A. That was done prior to the chemically oxidized protocol on the samples and the QUV oxidized protocol on the samples.			25	
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2 Q. If you think if you believe that there 3 is some document that you would have recorded the 4 date that you received the TVT exemplar that has 5 been produced to me, let me know. 6 Otherwise, I'm going to represent to you 7 that there is no document that recorded that 8 provides me with a date that identifies when you 9 would have received the TVT exemplar, okay? 10 So, Doctor, do you know approximately when 11 you would have received the TVT exemplar? 12 A. I don't recall exactly. 13 Q. I'm just looking for a fair estimation. 14 I'm entitled to a fair estimation. 15 A. I don't recall when I exactly received the 16 TVT exemplar you are referring to. 17 Q. And you didn't record in a sort of what 18 I'll call a traditional lab notebook the date that 19 you would have received the TVT exemplar, correct? 20 MR. HUTCHINSON: Object to form. Dan, 21 what do you mean by "traditional lab notebook"? If 22 If you would not provided the that would not be provided on the samples. 23 Q. All right. Did you perform that work for Exponent?  A. What work are you referring to? I'm not sure.  A. What work are you referring to? I'm not sure.  A. What work are you referring to? I'm not sure.  A. What work are you referring to? I'm not sure.  A. What work are you referring to? I'm not sure.  A. What work are you referring to? I'm not sure.  A. What work are you referring to? I'm not sure.  A. Uhit work are you referring to? I'm not sure.  A. I did. Also, others that were working on the project did as well.  Q. Okay. When did you divide the TVT exemplar exemplar exemplar device?  A. For these experiments, we cut the samples before we did the UV and chemically oxidized protocol exposure.  Q. Okay. My question was, do you know precisely when that would have been that division or separation or cutting of the TVT exemplar would have taken place?  A. That was done prior to the chemically oxidized protocol on the samples and the QUV oxidized protocol was conducted on the samples.		Page 39		Page 41
is some document that you would have recorded the date that you received the TVT exemplar that has been produced to me, let me know.  Otherwise, I'm going to represent to you that there is no document that recorded that provides me with a date that identifies when you would have received the TVT exemplar, okay? So, Doctor, do you know approximately when you would have received the TVT exemplar?  A. I don't recall exactly.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't recall when I exactly received the TVT exemplar you are referring to.  A. I don't record in a sort of what TVT exemplar you are referring to.  A. That was done prior to the chemically oxidized protocol on the samples and the QUV oxidized protocol was conducted on the samples.	1	just I'm just making that representation.	1	TVT was cut into smaller samples.
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13 Defore we did the UV and chemically oxidized 14 I'm entitled to a fair estimation. 15 A. I don't recall when I exactly received the 16 TVT exemplar you are referring to. 17 Q. And you didn't record in a sort of what 18 I'll call a traditional lab notebook the date that 19 you would have received the TVT exemplar, correct? 19 MR. HUTCHINSON: Object to form. Dan, 20 oxidized protocol was conducted on the samples.		•		-
14 I'm entitled to a fair estimation.  15 A. I don't recall when I exactly received the 15 Q. Okay. My question was, do you know 16 TVT exemplar you are referring to. 16 precisely when that would have been that division 17 Q. And you didn't record in a sort of what 18 I'll call a traditional lab notebook the date that 19 you would have received the TVT exemplar, correct? 19 A. That was done prior to the chemically 20 MR. HUTCHINSON: Object to form. Dan, 21 what do you mean by "traditional lab notebook"? If 21 oxidized protocol was conducted on the samples.			12	-
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18 I'll call a traditional lab notebook the date that 19 you would have received the TVT exemplar, correct? 19 A. That was done prior to the chemically 20 MR. HUTCHINSON: Object to form. Dan, 21 what do you mean by "traditional lab notebook"? If 21 oxidized protocol was conducted on the samples.				
you would have received the TVT exemplar, correct?  19 A. That was done prior to the chemically  20 MR. HUTCHINSON: Object to form. Dan, 21 what do you mean by "traditional lab notebook"? If 21 oxidized protocol was conducted on the samples.		•		
20 MR. HUTCHINSON: Object to form. Dan, 20 oxidized protocol on the samples and the QUV 21 what do you mean by "traditional lab notebook"? If 21 oxidized protocol was conducted on the samples.				
what do you mean by "traditional lab notebook"? If 21 oxidized protocol was conducted on the samples.		•	1	
you tell me, I'll remove my objection to the   22 Q. How many so you don't know the the			1	
23 question. 23 exact date, correct?		-	1	
24 BY MR. THORNBURGH: 24 A. It was done prior to when those			1	
25 Q. Well, Dr. Benight, you have seen the lab 25 experiments were carried out.	25	Q. Well, Dr. Benight, you have seen the lab	25	experiments were carried out.

#### Page 44 Page 42 1 Q. Okay. So you don't know the exact date MR. THORNBURGH: Okay. 2 that you divided the TVT exemplar, correct? 2 MR. HUTCHINSON: Dr. Benight, do you think 3 A. It was done before the experiments were 3 we need a five-minute break? 4 4 THE WITNESS: No, I don't need a break. carried out, sir. 5 5 MR. HUTCHINSON: Okay. Well, why don't MR. THORNBURGH: Chad, can you tell your 6 6 you ask your question again, Dan, and let's move on. witness to answer my questions? 7 7 MR. HUTCHINSON: Well, I think she's MR. THORNBURGH: For the record, Chad, you 8 trying to, Dan. What was your last question? 8 are not going to take a break to instruct your 9 MR. THORNBURGH: The exact date, when 9 witness to answer my questions, correct? 10 10 MR. HUTCHINSON: The witness has already exactly did that occur? 11 MR. HUTCHINSON: Okay. Well, I thought 11 answered your questions, Dan. What I'm telling you 12 she was asked -- yeah, maybe I didn't hear your 12 is, why don't you ask her again your question about 13 the specific date, and she'll answer it if she can. 13 MR. THORNBURGH: I'm looking for a date, 14 BY MR. THORNBURGH: 14 15 15 Q. Dr. Benight, on what date did you cut the Chad. 16 16 MR. HUTCHINSON: Huh? TVT exemplar into separate pieces for your 17 17 MR. THORNBURGH: So -- I'm looking for the experiment? 18 18 A. It was cut prior to when the experiments 19 MR. HUTCHINSON: Okay. 19 were performed, and I don't recall the specific 20 MR. THORNBURGH: What date --20 21 21 MR. HUTCHINSON: Well, I don't -- I don't Q. How many pieces -- strike that. 2.2 22 How many -- how many samples or pieces of know the precise date. Are you asking me or --23 the mesh were cut? 23 MR. THORNBURGH: No, I'm not. I'm not 24 24 A. I don't know the exact number. asking you, I'm asking your witness. If she doesn't 25 know the precise date, all she has to say is, "I 25 Q. Is that number documented anywhere in a Page 43 Page 45 1 don't know." 1 lab notebook? 2 A. It is documented in the documents that 2 MR. HUTCHINSON: Okay. Well, why don't 3 you ask her -- why don't you ask your question 3 were provided to you electronically. The samples 4 4 were given different sample numbers. again. 5 MR. THORNBURGH: All right. Well, sir --5 Q. What size were -- was each sample? 6 6 A. Which samples are you referring to? I'm MR. HUTCHINSON: And maybe we can go from 7 7 there. 8 8 Q. Okay. So -- well, it's hard for me to MR. THORNBURGH: -- can you -- but before 9 we move forward, will you please take five minutes, 9 have this conversation without having a lab notebook 10 we'll go off the record, and please talk with your 10 to reference, but let's try to do the best we can. 11 witness and ask her to start answering my questions. 11 MR. HUTCHINSON: All right. Hey, Dan. 12 THE WITNESS: Is that a question? 12 MR. HUTCHINSON: Well --13 13 MR. THORNBURGH: Otherwise, we're going to MR. HUTCHINSON: Hold on just a minute. 14 Wait a minute. 14 have to call the Court. 15 MR. HUTCHINSON: Well, Dan, while we're 15 Hey, Dan, look, the witness has already 16 making records here, the witness is answering your 16 told you that she has provided you the -- her 17 electronic lab notebook. 17 questions. I'm not sure you fully understand the 18 MR. THORNBURGH: But --18 answers that she is giving you, but the witness is 19 MR. HUTCHINSON: So whatever you want to 19 answering your questions. So let's -- we just --20 reference in her lab notebook that she's already 20 MR. THORNBURGH: Chad, are you --21 21 MR. HUTCHINSON: Hold on a minute. I'm given to you, feel free to ask a question about it. 22 22 BY MR. THORNBURGH: still talking. 23 Q. So you don't know -- you can't tell me 23 So we -- we just took a break. We're 24 right now specifically how many separate pieces of 24 ready to go, so why don't you -- I don't even think 25 mesh were created from the pristine mesh that you 25 we need a five-minute break.

	Page 46		Page 48
1	received sometime prior to the experiments that you	1	MR. HUTCHINSON: You mean
2	conducted, correct?	2	MR. THORNBURGH: or Exhibit 5 the
3	MR. HUTCHINSON: Object to form. Been	3	Histion chain of custody.
4	asked and answered.	4	(Whereupon, Exhibit 5 was marked for
5	THE WITNESS: I can look in the documents	5	identification.)
6	of the electronic lab notebook provided to you.	6	MR. THORNBURGH: We'll mark as Exhibit
7	BY MR. THORNBURGH:	7	No. 6 the flash drive that, according to your
8	Q. Did you bring any documents with you	8	testimony, was provided prior to Dr. MacLean's
9	today?	9	deposition.
10	A. I did.	10	(Whereupon, Exhibit 6 was marked for
11	Q. And what did you bring with you today?	11	identification.)
12	A. I brought a copy of the duces tecum notice	12	MR. THORNBURGH: Let's mark as Exhibit
13	for deposition.	13	No. 7 the flash drive that, according to your
14	I also brought a Histion project plan,	14	testimony, are documents that were given to me over
15	Amendment 1, which you have been provided. I also	15	the last couple days.
16	brought a Histion chain of custody cover page and	16	I assume, and correct me if I'm wrong,
17	chain of custody document which I received	17	that Exhibit No. 7 would include the FTIR on the
18	yesterday.	18	UV-treated specimens and some additional is it
19	I brought four flash drives, three of	19	XP what strike that.
20	which are the production documents, one of which was	20	Q. Let me just ask this, what documents are
21	provided to you prior to Dr. MacLean's deposition, a	21	contained on Number on Exhibit No. 7? I believe
22	second flash drive that contains documents that you	22	it's probably the FTIR; is that correct?
23	were given over the last couple of days, and a third	23	A. We haven't marked Exhibit 7 yet, sir.
24	flash drive there is two copies.	24	Q. Well, let's mark we're going to mark as
25	A third flash drive with yesterday's date	25	Exhibit No. 7 the documents that were that you
	Page 47		Page 49
1	that contains additional documents as part of the	1	testified were given to me over the last couple
2	production related to the duces tecum, and I have	2	days.
3	also brought microscope slides as part of this	3	A. Oh, okay. And what is
4	study.	4	Q. I
5	Q. Okay. So let's do this. Let's go ahead	5	A. I'm sorry, what is your question? I don't
6	and mark as Exhibit No. 2 the deposition notice that	6	understand.
7	you brought with you today.	7	Q. Okay. I I just want to make sure I
8	MR. HUTCHINSON: Hey, Dan, I think we're	8	understand what if what you believe was given to
9	on Exhibit No. 3; is that correct?	9	me over the last couple days.
10	THE WITNESS: I have two exhibits in front	10	Is that the FTIR data?
11	of me.	11	A. FTIR data of the oxidized intentionally
12	MR. THORNBURGH: Okay. Well, Exhibit	12	oxidized samples.
13	No	13	Q. Okay. Is there any other data on that
14	MR. HUTCHINSON: As far as numbering is	14	flash drive?
15	concerned.	15	A. I believe I don't have it loaded on the
16	MR. THORNBURGH: Yeah, I hear you. So	16	computer in front of, me but I believe there is also
17	let's mark as Exhibit No. 3 the deposition notice.	17	x-ray photoelectron spectroscopy data as part of
18	(Whereupon, Exhibit 3 was marked for	18	this study. And there is also a microscopy image
19	identification.)	19	index.
12	MR. THORNBURGH: Okay. Let's mark as	20	Q. Okay. And then you testified that you
20		21	brought a third flash drive that contains documents
	Exhibit 4 the Histion project plan.	41	
20	Exhibit 4 the Histion project plan. (Whereupon, Exhibit 4 was marked for	22	
20 21		1	that were responsive to the deposition notice duces
20 21 22	(Whereupon, Exhibit 4 was marked for	22	

	Page 50		Page 52
1	produced in any form prior to today?	1	A. Yes. I received the notice of deposition
2	A. We are providing them to you today.	2	yesterday, and these are in response to those.
3	MR. THORNBURGH: Now, Chad	3	Q. Okay. But you understand that I took
4	MR. HUTCHINSON: Yeah.	4	Dr. MacLean's deposition on September 29th, correct?
5	MR. THORNBURGH: I asked I asked you	5	A. Yes.
6	several days ago very politely to provide all	6	Q. Okay. And during that I'll represent
7	documents responsive to the deposition notice prior	7	to you that during that prior to that deposition,
8	to the you know, by you were supposed to	8	I also provided him with a request for production of
9	produce it by Friday, which you represented to me	9	documents.
10	you did produce on Friday.	10	So my question to you is, before
11	And now for the first time I'm learning	11	Dr. MacLean's deposition, did he or anybody reach
12	that you did not produce all of the documents	12	out to you and ask you to gather all documentation
13	responsive to the request, and as you know, doing	13	responsive to his request for production of
14	this by videoconference, that's specifically why I	14	documents?
15	asked you to produce those documents before today.	15	A. I'm sure Dr. MacLean provided all of the
16	MR. HUTCHINSON: Hey, Dan, why don't you	16	documents in his file related to his expert report.
17	ask the witness about these documents. But for the	17	Q. That's not my question. My question to
18	record, I received them yesterday. That was the	18	you is very specific.
19	first time I had received them.	19	Did anybody reach out to you prior to his
20	BY MR. THORNBURGH:	20	deposition and ask you to produce documents that
21	Q. Dr. Benight, what documents are contained	21	related to this case or the experiments that you
22	on Flash Drive No. 3, on Exhibit 7?	22	performed in this case?
23	MR. HUTCHINSON: Exhibit 8, I believe.	23	MR. HUTCHINSON: Object to form.
24	THE WITNESS: Exhibit 7 hasn't been marked	24	THE WITNESS: Yes.
25	yet.	25	
	Page 51		Page 53
1	MR. THORNBURGH: There we go. All right.	1	BY MR. THORNBURGH:
2	MR. THORNBURGH: There we go. All right. So let's give the court reporter some time.	2	BY MR. THORNBURGH:  Q. Okay. When did that occur?
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#### Page 54 Page 56 1 A. These are additional images that were 1 Q. And, you know, I don't have a -- and I'm 2 taken as part of the study. 2 going to just tell you, I don't have a traditional 3 Q. Okay. So why weren't they produced prior 3 lab notebook, so I have been trying to piece 4 4 together sort of all of the documents that you have to today? 5 5 A. I don't know. provided to me to try to understand what was done in 6 MR. THORNBURGH: Chad, why weren't they 6 7 7 produced prior to today? So let's walk through those documents, and 8 MR. HUTCHINSON: Well, I just -- I just 8 let me know if I have a misunderstanding in any way, 9 got them yesterday, Dan. And that's why we produced 9 10 10 them to you. I will tell you that --MR. HUTCHINSON: I'm going to object to 11 MR. THORNBURGH: Here is what I want you 11 the narrative. 12 12 to do, Chad. I want you -- we're going to take a THE WITNESS: Okay. 13 13 BY MR. THORNBURGH: 14 14 This deposition is going to go longer than Q. Okay. So --15 15 A. I don't have any -- I don't have all of I had hoped, unfortunately, but, Chad, we're going 16 to take a break and you are going to send me those 16 the production documents in front of me, sir. 17 17 documents electronically so I can review those. Q. Yeah, well, the -- Madam Court Reporter 18 MR. HUTCHINSON: Okay. I don't know --18 has the documents, so let's go ahead and look at 7A. 19 maybe we'll see if the court reporter can do that. 19 So we'll go ahead and mark that as Exhibit No. 9. 20 Can you send Mr. Thornburgh the documents 20 (Whereupon, Exhibit 9 was marked for 21 on Exhibit 8 via -- electronically? 21 identification.) 22 (Whereupon, a brief discussion off the 22 BY MR. THORNBURGH: 23 record.) 23 Q. Okay. And, Dr. Benight, I'll -- well, 24 THE VIDEOGRAPHER: Going off the record at 24 strike that. 25 12:44. 25 Do you see on 7A at the very bottom it Page 57 Page 55 1 (Whereupon, a brief recess was taken.) 1 says, 200 KV or -- K -- I think it's KV. 2 MR. HUTCHINSON: No, he's going -- okay. 2 Do you see that? 3 He's going. We're on the record. We have been on 3 A. It says 20 KV. 4 the record all day. 4 Q. I'm sorry. That's what I meant. 5 MR. THORNBURGH: Okay. 5 20 KV X35, 500 microns is the scale. 6 6 Q. So before we went off the record, Do you see that? 7 7 Dr. Benight, you had indicated that there were some A. Yes. 8 8 Q. Okay. I just want to make sure we're additional microscopy and scanning electron 9 microscopy images on Exhibit No. 8 that have not 9 looking at the same document. And I'll represent to 10 been produced prior to today; is that accurate? 10 you that when this was sent to me or produced to me, A. Yes. 11 11 it was saved as a document called Sample 4 01. 12 12 Q. Okay. Are there any other documents or Would this -- would that naming -- the way 13 13 images or data contained within Exhibit No. 8, other it was named indicate to you that this was a sample 14 than the microscopy or scanning electron microscopy? 14 that was -- that was numbered as Number 4? 15 A. I want to look at the contents of the jump 15 A. If it says Sample No. 4, then it must be 16 drive I brought before I answer. 16 Sample No. 4. 17 Q. I'll give you time during our next break 17 Q. Okay. And there were a couple images, scanning electron microscopy images of Sample No. 4. 18 to do that, okay? 18 19 19 Do you recall that? A. Okay. 20 20 A. Yes. Q. I want to -- I want to move forward, okay? 21 21 Doctor, talking about the pristine TVT Q. Okay. And then there were -- there was 22 exemplar that you received and was divided into 22 another document that was called Sample 5 01. Would 23 different samples, do you recall when we were 23 that indicate to you that that was Sample No. 5? 24 talking about that or had that discussion? 24 A. I don't have that document in front of me. 25 25 A. Yes. Q. Okay. So, well, we're going to have to do

	Page 58		Page 60
1	it this way, then.	1	BY MR. THORNBURGH:
2	MR. THORNBURGH: Madam Court Reporter,	2	Q. Okay. And I'll represent to you well,
3	let's mark as Exhibit No. 10 7B.	3	do you see at the bottom, it says it says, "times
4	(Whereupon, Exhibit 10 was marked for	4	200, 100-micron scale"?
5	identification.)	5	A. Yes.
6	BY MR. THORNBURGH:	6	Q. Okay. And I'll represent to you that that
7	Q. Okay. And I'll represent to you that this	7	was Image 4 of of Sample No. 4 again, okay?
8	was sent to me as a document that was titled:	8	A. Okay.
9	"Sample 4 02," and the just so that we're on the	9	Q. All right. So let's go ahead and try to
10	same page, is your Exhibit No. 10	10	speed this process up a little bit. I'm going to
11	A. Yes, okay. I'm holding now Exhibit	11	have the court reporter take Exhibit a document
12	No. 10.	12	numbered 7E, 7F, 7G, and we'll just make that one
13	Q. Okay. And does that the bottom of that	13	exhibit and we'll call that Exhibit No. 13.
14	page say, "20 KV X200," and then have a scale of	14	(Whereupon, Exhibit 13 was marked for
15	100 microns on it?	15	identification.)
16	A. Yes.	16	(Whereupon, a brief discussion off the
17	Q. Okay. And is it your understanding that	17	record.)
18	that is another scanning electron microscopy or SEM	18	BY MR. THORNBURGH:
19	of Sample No. 4 which was intentionally oxidized	19	Q. Okay. I'll represent to you that these
20	using UV the QUV process?	20	are you ready? I'm sorry.
21	A. Yes.	21	A. I have Exhibit 13 in front of me.
22	Q. Okay. The next document is 7C, for the	22	Q. Okay. And I'll represent to you that
23	court reporter's reference, and we'll mark that as	23	these images were sent to us as titled Sample 5.
24	Exhibit No. 11.	24	So would that indicate to you that a
25	(Whereupon, Exhibit 11 was marked for	25	Sample 5 was treated with QUV and and then looked
	Page 59		Page 61
1	identification.)	1	at under the scanning electron microscopy images?
2	BY MR. THORNBURGH:	2	A. Yes.
3	Q. Okay. And at the bottom of that, do you	3	Q. Okay. And then let's go ahead and mark
4	see it says, "20 KV X35, 500 micron scale"?	4	the next two images, which are 7H and 7I, as Exhibit
5	A. Yes.	5	No. 14.
6	Q. Okay. And this was sent to me as a	6	(Whereupon, a brief discussion off the
7	document titled: "Sample 4_03."	7	
8			record.)
	Does it does that indicate to you that	8	(Whereupon, Exhibit 14 was marked for
9	this was a image of the QUV-treated Sample No. 4?		(Whereupon, Exhibit 14 was marked for identification.)
9	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes.	8 9 10	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH:
9 10 11	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes.  Q. Okay. So I'm going to try to speed this	8 9 10 11	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was
9 10 11 12	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes.  Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images,	8 9 10 11 12	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6."
9 10 11 12 13	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes.  Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next	8 9 10 11 12 13	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample
9 10 11 12 13 14	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about	8 9 10 11 12 13 14	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and
9 10 11 12 13 14	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?	8 9 10 11 12 13 14 15	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy?
9 10 11 12 13 14 15	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no,	8 9 10 11 12 13 14 15 16	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of
9 10 11 12 13 14	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.	8 9 10 11 12 13 14 15	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes.
9 10 11 12 13 14 15 16 17 18	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.	8 9 10 11 12 13 14 15 16 17	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the
9 10 11 12 13 14 15 16 17 18	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.  MR. THORNBURGH: I'm going to withdraw	8 9 10 11 12 13 14 15 16 17 18	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the pristine TVT was divided, and we just looked at some
9 10 11 12 13 14 15 16 17 18	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.  MR. THORNBURGH: I'm going to withdraw that.	8 9 10 11 12 13 14 15 16 17 18 19 20	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the pristine TVT was divided, and we just looked at some scanning electron microscopy of a sample No. 4, a
9 10 11 12 13 14 15 16 17 18 19 20 21	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes.  Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.  MR. THORNBURGH: I'm going to withdraw that.  The next document we'll mark as Exhibit	8 9 10 11 12 13 14 15 16 17 18 19 20 21	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the pristine TVT was divided, and we just looked at some scanning electron microscopy of a sample No. 4, a Sample No. 5, and a Sample No. 6, correct?
9 10 11 12 13 14 15 16 17 18 19 20	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.  MR. THORNBURGH: I'm going to withdraw that.	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the pristine TVT was divided, and we just looked at some scanning electron microscopy of a sample No. 4, a Sample No. 5, and a Sample No. 6, correct? A. That's what you have indicated, yes.
9 10 11 12 13 14 15 16 17 18 19 20 21	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes.  Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.  MR. THORNBURGH: I'm going to withdraw that.  The next document we'll mark as Exhibit	8 9 10 11 12 13 14 15 16 17 18 19 20 21	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the pristine TVT was divided, and we just looked at some scanning electron microscopy of a sample No. 4, a Sample No. 5, and a Sample No. 6, correct? A. That's what you have indicated, yes. Q. Okay. Well, does that indicate to you
9 10 11 12 13 14 15 16 17 18 19 20 21 22	this was a image of the QUV-treated Sample No. 4?  A. If it is with the same set of images, yes. Q. Okay. So I'm going to try to speed this up a little bit. Let's take the next three images, sorry, next  MR. HUTCHINSON: Are you talking about what has already been marked, Dan?  MR. THORNBURGH: Yes no, no no, withdraw that.  MR. HUTCHINSON: Okay.  MR. THORNBURGH: I'm going to withdraw that.  The next document we'll mark as Exhibit No. 12, which was 7D for your reference, Madam Court	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	(Whereupon, Exhibit 14 was marked for identification.) BY MR. THORNBURGH: Q. Okay. And, Dr. Benight, this document was sent to us as it was titled: "Sample 6." So would that indicate to you that Sample 6 was treated with QUV radiation and then and looked at using scanning electron microscopy? A. Yes, if with the same other set of images, then yes. Q. Okay. So we were talking about how the pristine TVT was divided, and we just looked at some scanning electron microscopy of a sample No. 4, a Sample No. 5, and a Sample No. 6, correct? A. That's what you have indicated, yes.

1	Page 62		Page 64
1	photooxidize those those samples and then were	1	figure that out as we go.
2	looked at using scanning electron microscopy?	2	But after the photooxidation process using
3	MR. HUTCHINSON: Object to form.	3	your QUV machine, what was the next step in your
4	THE WITNESS: Can you repeat the question,	4	experiment?
5	please?	5	A. They were imaged with scanning electron
6	MR. THORNBURGH: Yes.	6	microscopy.
7	Q. So I think I can tell from sort of piecing	7	Q. Okay. And those are the documents that we
8	this information together that a Sample No. 4, a	8	just marked, correct?
9	Sample No. 5, and a Sample No. 6 were subjected to	9	A. These are some SEM images of the samples,
10	QUV radiation for intentional oxidation	10	yes. I believe it's Samples 4, 5, and 6.
11	photooxidation, correct?	11	Q. Okay. And what was the next process in
12	A. That's correct.	12	your experiment after the QUV and after the scanning
13	Q. Were there any other samples that were	13	electron microscopy?
14	treated using QUV?	14	A. I believe we did FTIR, or Fourier
15	A. There may have been, yes.	15	transform infrared spectroscopy.
16	Q. Okay. What other samples were treated	16	Q. Okay. Before we get there, what's what
17	using the QUV process?	17	was the purpose of doing FTIR?
18	A. Well, there was only one batch of samples	18	A. Dr. Guelcher did FTIR in his protocol for
19	treated in that process, including Samples 4, 5, and	19	the chemically oxidized mesh given in the IUGA
20	6.	20	proceedings paper.
21	Q. Okay. So what do you mean by "one batch	21	Q. Okay. So let's just let's separate
22	of samples treated using that process"?	22	sort of the experiments that you did for now
23	A. They were all included in the QUV chamber	23	let's just talk about the QUV experiment, okay,
24	at the same time.	24	where you photooxidized the mesh using radiation in
25	Q. Okay. So you is it is it is it	25	your QUV machine, okay?
	Page 63		Page 65
1	fair for me to try to sort of restate strike	1	A. Okay.
2	that.	2	Q. Okay. So after the scanning electron
3	Let me see if I understand.	3	microscopy was conducted on those samples that were
4	So you took Samples 4, 5, and 6, and you	4	treated with UV radiation on the in the QUV
5	put those in the QUV and treated those to	5	machine, what was the next process?
6	intentionally oxidize those using photooxidation?	6	A. We performed FTIR.
7	A. Yes.		•
		7	Q. When was the FTIR performed?
8	Q. All right. Were there any other samples	7 8	<ul><li>Q. When was the FTIR performed?</li><li>A. After the samples had been exposed in the</li></ul>
9	that were treated using the QUV process?		<ul><li>Q. When was the FTIR performed?</li><li>A. After the samples had been exposed in the QUV chamber.</li></ul>
9 10	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been	8 9 10	<ul><li>Q. When was the FTIR performed?</li><li>A. After the samples had been exposed in the</li><li>QUV chamber.</li><li>Q. Do you have a date?</li></ul>
9 10 11	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.	8 9 10 11	<ul><li>Q. When was the FTIR performed?</li><li>A. After the samples had been exposed in the QUV chamber.</li><li>Q. Do you have a date?</li><li>A. I don't recall a specific date. They</li></ul>
9 10 11 12	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were	8 9 10 11 12	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been</li> </ul>
9 10 11 12 13	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.	8 9 10 11 12 13	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been exposed in the QUV chamber.</li> </ul>
9 10 11 12 13 14	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.  BY MR. THORNBURGH:	8 9 10 11 12 13 14	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been exposed in the QUV chamber.</li> <li>Q. Why did you do FTIR analysis of the</li> </ul>
9 10 11 12 13 14 15	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.  BY MR. THORNBURGH:  Q. Okay. What samples what other samples	8 9 10 11 12 13 14 15	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been exposed in the QUV chamber.</li> <li>Q. Why did you do FTIR analysis of the</li> <li>UV-treated specimens?</li> </ul>
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9 10 11 12 13 14 15 16	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.  BY MR. THORNBURGH:  Q. Okay. What samples what other samples are there?  A. Most likely Numbers 1, 2, and 3.	8 9 10 11 12 13 14 15 16 17	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been exposed in the QUV chamber.</li> <li>Q. Why did you do FTIR analysis of the</li> <li>UV-treated specimens?</li> <li>A. We did FTIR because it was part of</li> <li>Dr. Guelcher's protocol in the chemically oxidized</li> </ul>
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9 10 11 12 13 14 15 16 17 18 19 20 21 22	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.  BY MR. THORNBURGH:  Q. Okay. What samples what other samples are there?  A. Most likely Numbers 1, 2, and 3.  Q. And where would Numbers the process of QUV of Samples No. 1, 2, and 3 be recorded?  A. I would have to look at the production documents, but we may have not imaged all six samples.	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been exposed in the QUV chamber.</li> <li>Q. Why did you do FTIR analysis of the</li> <li>UV-treated specimens?</li> <li>A. We did FTIR because it was part of</li> <li>Dr. Guelcher's protocol in the chemically oxidized mesh.</li> <li>Q. Did you do FTIR because you were attempting to demonstrate that the oxidized TVT device doesn't stain?</li> <li>A. The purposes of these experiments were</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.  BY MR. THORNBURGH:  Q. Okay. What samples what other samples are there?  A. Most likely Numbers 1, 2, and 3.  Q. And where would Numbers the process of QUV of Samples No. 1, 2, and 3 be recorded?  A. I would have to look at the production documents, but we may have not imaged all six samples.  Q. Okay. Well, let's try to so we'll	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. TheyFTIR was performed after the samples had been exposed in the QUV chamber.</li> <li>Q. Why did you do FTIR analysis of the UV-treated specimens?</li> <li>A. We did FTIR because it was part of Dr. Guelcher's protocol in the chemically oxidized mesh.</li> <li>Q. Did you do FTIR because you were attempting to demonstrate that the oxidized TVT device doesn't stain?</li> <li>A. The purposes of these experiments were that they were a simple set of control experiments</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20 21 22	that were treated using the QUV process?  MR. HUTCHINSON: Object to form. Been asked and answered.  THE WITNESS: Yes, I believe there were other samples.  BY MR. THORNBURGH:  Q. Okay. What samples what other samples are there?  A. Most likely Numbers 1, 2, and 3.  Q. And where would Numbers the process of QUV of Samples No. 1, 2, and 3 be recorded?  A. I would have to look at the production documents, but we may have not imaged all six samples.	8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. When was the FTIR performed?</li> <li>A. After the samples had been exposed in the</li> <li>QUV chamber.</li> <li>Q. Do you have a date?</li> <li>A. I don't recall a specific date. They</li> <li>FTIR was performed after the samples had been exposed in the QUV chamber.</li> <li>Q. Why did you do FTIR analysis of the</li> <li>UV-treated specimens?</li> <li>A. We did FTIR because it was part of</li> <li>Dr. Guelcher's protocol in the chemically oxidized mesh.</li> <li>Q. Did you do FTIR because you were attempting to demonstrate that the oxidized TVT device doesn't stain?</li> <li>A. The purposes of these experiments were</li> </ul>

	Page 66		Page 68
1	Q. Was it important for you to demonstrate	1	strike that.
2	that the specimens that were treated with UV were	2	Let me just tell you sort of what this
3	actually oxidized before they were submitted to	3	document was named when it was sent to me. It was
4	Histion?	4	named "QUV 6."
5	A. We performed FTIR on the samples that were	5	Do you know why well, what "QUV 6"
6	processed because, as part of Dr. Guelcher's	6	would mean?
7	protocol, he also did FTIR.	7	MR. HUTCHINSON: I am going to object to
8	Q. Right, but what was it important for	8	form.
9	you to demonstrate that because part of the	9	THE WITNESS: "QUV" would indicate that
10	QUV part of your experiment was to was also to	10	the sample was exposed to QUV irradiation.
11	demonstrate that oxidized mesh doesn't stain using	11	BY MR. THORNBURGH:
12	H&E.	12	Q. Okay. And it was identified also as 6.
13	Is that is that a fair understanding of	13	Would that indicate to you that this FTIR
14	part of your purpose of those experiments?	14	was done on Sample No. 6?
15	A. Intentionally oxidized mesh, yes.	15	A. I believe so, yes.
16	Q. Okay. And so in order for your tests to	16	Q. Okay. And then if you look at the next
17	be valid, is it fair to say that you had to conduct	17	page of Exhibit No. 15, you will see that's just
18	the FTIR to demonstrate that the specimens were	18	a looks like a zoomed-in on the same FTIR
19	actually oxidized before they were sent to Histion	19	spectra that we just looked at as Exhibit on the
20	to be stained?	20	first page of Exhibit 15, right?
21	MR. HUTCHINSON: Object to form.	21	A. Yes.
22	THE WITNESS: We did carry out FTIR to	22	Q. Okay. And then the third page is
23	look for hallmarks of oxidation in the QUV-exposed	23	it's on the top left-hand corner, it says, "QUV
24	samples.	24	Oxidized No. 4."
25	samples.	25	Do you see that?
	Page 67		Page 69
1	BY MR. THORNBURGH:	1	A. Yes.
2	Q. Okay. And that's because you wanted to	2	Q. And regarding the QUV-treated specimens or
3	you wanted to make sure that the specimens that were	3	the UV-treated specimens, the only FTIR that was
4	treated with UV were actually oxidized, right?	4	produced to me were for Specimen 6 and Specimen 4.
5	A. Well, we wanted to do that because	5	Was there any additional FTIR done on any
6	Dr. Guelcher did that in his protocol.	6	other samples that were treated with QUV?
7	Q. Okay. So if we can look at Exhibit No	7	A. Not that I'm aware of.
8	or Document No. 6A.	8	Q. Okay. And this document this FTIR
9	THE REPORTER: 6A is before the witness.	9	spectra would have been created at the time that the
10	MR. THORNBURGH: Okay. Can you also give	10	FTIR was conducted; is that correct?
11	the witness 6B?	11	A. We acquired some of these spectra prior to
12	THE REPORTER: 6B.	12	sending the samples to Histion for processing,
13	MR. THORNBURGH: 6C. And then we'll mark	13	embedding, and staining.
14	those as Composite Exhibit No I think we're on	14	Q. Okay. My question was, to you, these FTIR
15	14, is that right?	15	spectra would have been created at the time that the
16	THE REPORTER: 15.	16	FTIR was performed on those samples, correct?
17	MR. THORNBURGH: 15.	17	A. Oh, yes. The spectrum is an output of the
18	(Whereupon, a brief discussion off the	18	FTIR experiment.
19	record.)	19	Q. Okay.
20	(Whereupon, Exhibit 15 was marked for	20	MR. HUTCHINSON: Hey, Dan, could you back
21	identification.)	21	away from your microphone, please? We're getting a
22	BY MR. THORNBURGH:	22	tremendous amount of static over here.
23	Q. Okay. Dr. Benight, if you look at the	23	MR. THORNBURGH: I'll do my best, but I
24	first page on Exhibit 15, what what are we	24	can't really control it.
25	looking at here? Is this an FTIR image of well,	25	So let's go

	Page 70		Page 72
1	THE VIDEOGRAPHER: It's the sound of your	1	Dr. Benight, please go ahead and finish
2	paper that you are handling.	2	your answer.
3	MR. THORNBURGH: Okay.	3	THE WITNESS: This spectrum that you are
4	Let's look at mark as Exhibit No. 16	4	discussing, created on October the 5th, was created
5	the document that was sent to you as 6D, Madam Court	5	because the previous FTIR spectrum of Sample No. 4,
6	Reporter.	6	we did not save a background spectrum.
7	(Whereupon, a brief discussion off the	7	And so this spectrum was created recently,
8	record.)	8	and the background spectrum associated with it was
9	(Whereupon, Exhibit 16 was marked for	9	saved to show that the FTIR spectrum of each is the
10	identification.)	10	same.
11	BY MR. THORNBURGH:	11	BY MR. THORNBURGH:
12	Q. Okay. Doctor, do you understand what	12	Q. Well, where is the FTIR spectra of Sample
13	metadata is?	13	No. 4 that was done any time prior to October 5th?
14	A. Yes.	14	A. If I recall, that was in one of the
15	Q. Okay. Certain documents contain data	15	exhibits that we just marked. I'm looking at
16	regarding when the document was created and who	16	Exhibit No. 6C.
17	created the document, right?	17	Q. Yeah. And this is the properties from
18	A. Yes.	18	Exhibit No. 16 from Sample No. 4.
19	Q. Okay. This this document is Exhibit	19	So my question is, where is the FTIR
20	No. 16 are the properties from the QUV Specimen 4	20	spectrum or spectra done on Sample No. 4 prior to
21	FTIR, which was marked as Exhibit No. 15.	21	October 5th?
22	And you will see if you see if you look	22	MR. HUTCHINSON: Object to form.
23	at this document, you see where it says, "Created"?	23	THE WITNESS: If it is not included, then
24	A. Yes.	24	an FTIR spectrum of Number 6 or Number 5 or another
25	Q. What date do you see there?	25	sample that was processed and treated by QUV in the
	Page 71		Page 73
1	A. October the 5th, 2015.	1	same batch was already provided.
2	<ul><li>A. October the 5th, 2015.</li><li>Q. Okay. So I'm correct, aren't I, that the</li></ul>	2	same batch was already provided. BY MR. THORNBURGH:
2 3	A. October the 5th, 2015.  Q. Okay. So I'm correct, aren't I, that the FTIR that was done on on Sample No. 4 was	2 3	same batch was already provided. BY MR. THORNBURGH: Q. Well, I have the I'm going to I'll
2 3 4	A. October the 5th, 2015.  Q. Okay. So I'm correct, aren't I, that the FTIR that was done on on Sample No. 4 was actually conducted on October 5th of 2015, correct?	2 3 4	same batch was already provided.  BY MR. THORNBURGH:  Q. Well, I have the I'm going to I'll represent to you that the property for the metadata
2 3 4 5	<ul> <li>A. October the 5th, 2015.</li> <li>Q. Okay. So I'm correct, aren't I, that the</li> <li>FTIR that was done on on Sample No. 4 was actually conducted on October 5th of 2015, correct?</li> <li>A. This particular spectrum was created on</li> </ul>	2 3 4 5	same batch was already provided.  BY MR. THORNBURGH:  Q. Well, I have the I'm going to I'll represent to you that the property for the metadata for the FTIR of Sample 6 also indicates that it was
2 3 4 5 6	A. October the 5th, 2015.  Q. Okay. So I'm correct, aren't I, that the FTIR that was done on on Sample No. 4 was actually conducted on October 5th of 2015, correct?  A. This particular spectrum was created on October 5th, 2015, and the reason is because the	2 3 4 5 6	same batch was already provided. BY MR. THORNBURGH: Q. Well, I have the I'm going to I'll represent to you that the property for the metadata for the FTIR of Sample 6 also indicates that it was created on October 5th.
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2 3 4 5 6 7 8	A. October the 5th, 2015. Q. Okay. So I'm correct, aren't I, that the FTIR that was done on on Sample No. 4 was actually conducted on October 5th of 2015, correct? A. This particular spectrum was created on October 5th, 2015, and the reason is because the previous Q. I	2 3 4 5 6 7 8	same batch was already provided. BY MR. THORNBURGH: Q. Well, I have the I'm going to I'll represent to you that the property for the metadata for the FTIR of Sample 6 also indicates that it was created on October 5th. A. What exhibit are you referring to, sir? Q. Exhibit No the metadata for the FTIR
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#### Page 74 Page 76 THE VIDEOGRAPHER: Back on the record. 1 Q. I'm telling you, they haven't. I haven't 1 2 received any other --2 Time is 1:28. 3 MR. HUTCHINSON: And, Dan, I'm sorry. 3 MR. HUTCHINSON: Hey, Dan, while we were 4 4 on the break, Dr. Benight borrowed the witness' --Please do not argue with the witness. I know you 5 5 are frustrated because you may not have had the I'm sorry, the court reporter's laptop. 6 6 And it's my understanding that it may not opportunity to be here today, but please do not 7 7 argue with the witness. have the software on there indicated to -- or 8 BY MR. THORNBURGH: 8 needed, rather, to open up the flash drives. But 9 Q. Tell me where I can locate the FTIR 9 you can -- you can ask the follow-up questions. 10 10 BY MR. THORNBURGH: spectra for Sample No. 5? 11 A. I would have to look in the production. I 11 Q. Dr. Benight, so I understand from Chad's 12 don't have all of the spectra in front of me at the 12 representations that you are unable to open up the 13 13 flash drive; is that correct? 14 14 Q. Look at -- look at the production, take A. I can see the documents, but I can't open your time. 15 15 up the PowerPoint files. 16 16 A. Okay. Q. Did you have a document, was there a 17 Q. I want -- I need an answer to this. 17 document name or a document that had a name or was 18 THE WITNESS: Do we have --18 titled some -- by some way that refreshed your 19 MR. HUTCHINSON: Oh, look at -- what do 19 recollection on where the FTIR data on the 20 20 UV-treated samples conducted prior to October 5th you want her to look at, Dan? 21 21 MR. THORNBURGH: I want her to look at would be located? 22 A. Well, I can't read the document or open 22 Exhibit -- Exhibit No. 7 -- sorry, Exhibit No. 6, 7, 23 and 8 and tell me where the FTIR spectra for any 23 it, but I believe it's QUV Oxidized Mesh No. 4. 24 24 Q. Okay. Well, Doctor, we just looked at QUV-treated samples are located that -- that would QUV -- we just looked at Exhibit No. 15. We looked 25 have been conducted prior to October 5th. 25 Page 75 Page 77 1 MR. HUTCHINSON: All right. That's on a 1 at the FTIR for Number 4, Sample No. 4. 2 2 flash drive. Do you recall looking at that? 3 MR. THORNBURGH: Do you have a computer 3 A. Were we looking at that document or were 4 with you? 4 we looking at the PowerPoint in the 5 5 MR. HUTCHINSON: No, I don't have a 2015-10-05 Repeat FTIR document? 6 computer with me. 6 MR. HUTCHINSON: Yeah, this has gotten 7 7 MR. THORNBURGH: Madam Court Reporter, I confusing. You guys, I don't know how we need to 8 understand from, I think, discussion that we had 8 get on the same page, but we need to do that. 9 earlier that Dr. Benight has her computer with her. 9 BY MR. THORNBURGH: 10 THE WITNESS: I don't have a computer with 10 Q. Well, so if we look at Exhibit No. 15? 11 11 A. Okay. me. 12 12 MR. THORNBURGH: Okay. Madam -- the --Q. Okay. There was FTIR data on Sample No. 6 13 13 Madam -- the court reporter has her computer. and FTIR data on Sample No. 4. 14 So let's put in the flash drive and 14 A. Well, the only labels are Number 4 within 15 identify for me where the FTIR spectra are for any 15 Exhibit No. 15. 16 UV-treated specimens that were conducted prior to 16 Q. Right. Exactly. 17 October 5th of 2015. 17 A. Okay. (Whereupon, a brief discussion off the Q. Okay. And then we looked at Exhibit No. 18 18 19 19 16, which was the -- the metadata for Exhibit No. record.) 20 MR. HUTCHINSON: Dan, why don't we go off 20 15, Sample No. 4, which demonstrated that that FTIR 21 21 the record while we are getting everything set up. spectra was created on October 5th, 2015. 22 MR. THORNBURGH: That's fine. 22 A. The FTIR spectra that were created on 23 THE VIDEOGRAPHER: This is the end of Tape 23 October 5th are in the 2015-10-05 Repeat FTIR folder 24 No. 1. Going off the record at 1:18. 24 in a document that is 2015-10-05 Summary. 25 25 (Whereupon, a discussion off the record.) Q. So, I'm sorry, somehow I was on mute.

#### Page 78 Page 80 entitled: "2015-10-05 Summary." 1 Are you guys still there? 2 A. I can hear you now, yes. 2 Q. Listen to my question very carefully. 3 Q. Okay. So you weren't --3 What UV-treated samples were analyzed 4 MR. THORNBURGH: What was the last line of 4 using FTIR prior to October 5th, 2015? 5 MR. HUTCHINSON: Dan, the witness has questioning? 5 6 MR. HUTCHINSON: And, Dan, I'm sorry. We 6 already answered your question, sir. 7 7 can hear you guys on the phone, so back up --BY MR. THORNBURGH: 8 (Overlapping speakers.) 8 Q. No, just tell me the sample number? 9 MR. THORNBURGH: Yeah, what -- yeah, what 9 A. Sir, I can't open the PowerPoint document 10 10 was the -- what was the last line of -- what was to confirm which samples you are referring to. MR. HUTCHINSON: Dan, maybe if you had --11 the -- I'm asking the court reporter what the last 11 12 question was, because I was on mute and I'm not sure 12 since you are not here, maybe if you had a document 13 how long I was on mute for. 13 you could show the witness, that may be helpful. 14 14 MR. THORNBURGH: I just showed the witness (Whereupon, the reporter read the record 15 15 Exhibit No. 15. Exhibit No. 15 was the FTIR of QUV as follows: "Question: Okay. And then we looked at 16 16 6 and the FTIR of QUV -- the FTIR of QUV-treated 17 17 Exhibit No. 16, which was the -- the metadata for Sample No. 4. MR. HUTCHINSON: Yes, and, Dan, what I'm 18 Exhibit No. 15, Sample No. 4, which demonstrated 18 19 that that FTIR spectra was created on October 5th, 19 telling you is that you are asking her a very 20 20 specific question, you are not here, she's referring 21 21 MR. HUTCHINSON: Object to form. to a documents on a flash drive. 22 MR. THORNBURGH: Was there a question to 22 We cannot open up the documents on a flash 23 23 that -- was there an answer to that, I mean? drive because we didn't bring a computer nor did you 24 24 (Whereupon, the reporter read the record bring a computer, and the court reporter has 25 as follows: 25 graciously allowed us to borrow her computer, and Page 79 Page 81 1 "Answer: The FTIR spectra that were 1 for whatever reason it does not have the software on 2 2 created on October 5th are in the 2015-10-05 Repeat it where Dr. Benight can open all of the files on 3 FTIR folder in a document that is 3 the flash drives marked as Exhibits 6, 7, or 8. 4 2015-10-05 Summary.") 4 So that's not our problem. That's your 5 5 BY MR. THORNBURGH: problem. 6 6 Q. So, doctor, just tell me, what UV-treated MR. THORNBURGH: My question is very 7 7 specimens or samples were submitted for FTIR simple. 8 analysis prior to October 5th of 2015? 8 Q. Doctor -- so let's just back up a little 9 A. Well, the samples that were -- the FTIR 9 bit, because I'm not trying to trick you. I'm not 10 spectra that were acquired on October 5th, 2015, are 10 trying to, you know, ask you difficult questions. 11 in the 2015-10-05 Repeat FTIR folder in the 11 I'm not trying to ask you questions that you 12 2015-10-05 Summary document. 12 shouldn't be able to answer. 13 13 I'm unable to open the document in the So let's just back up a little bit. 14 previous folder that is labeled QUV Oxidized Mesh 14 I understand that we -- you received the 15 15 pristine exemplar TVT and that exemplar was cut into 16 Q. You must not understand me, okay, so I'm 16 pieces and there were certain samples that were 17 going to try to simplify this. We looked at Sample 17 treated using the QUV machine to photooxidize it, 18 No. 4 in Exhibit No. 15. We looked at the metadata 18 and then after -- and that's correct, right? 19 19 for Sample No. 4, which demonstrated that the FTIR A. Yes. 20 20 Q. Okay. And then -- and then you testified of Sample No. 4 was done on October 5th, 2015. 21 that after you put those samples in the QUV machine 21 A. Sir, I can't tell what spectra are to photooxidize them, you then looked at Samples 4, 22 included in the metadata printout, Exhibit 16, but I 22 23 can tell you that the spectra acquired on 23 5, and 6, at least, and did scanning electron 24 October 5th, 2015, are contained in the 24 microscopy. 25 25 And then you testified and you represented 2015-10-05 Repeat FTIR folder in the document

#### Page 82 Page 84 1 to the Court and to me that the next process in 1 Q. Okay. And you are representing under oath 2 your -- in your study, was to do FTIR analysis. 2 to the Court that prior to October 5th, 2015, 3 Okay. So we have a -- a disagreement, I think, on 3 certain UV-treated specimens, or samples, were 4 when that FTIR analysis was done. 4 analyzed using FTIR, correct? 5 You are representing to the Court that the A. Yes, we did that. 6 FTIR analysis was conducted prior to October 5th of 6 Q. Okay. And you just can't -- and I 7 7 2015 and prior to -- I believe, prior to the next understand that right now you can't identify which 8 process in your experiment, which would have been 8 9 embedding some samples in either resin or paraffin. 9 A. I can't open a document to confirm which 10 10 Is that accurate? samples were measured with FTIR. 11 MR. HUTCHINSON: Dan, I'm going to object 11 Q. Okay. So -- but you -- but I think we --12 12 to the form of the question. It's entirely too I understand from your testimony, that Sample No. 6 13 13 long. Can you please rephrase? and Sample No. 4 were done -- there was a repeat 14 BY MR. THORNBURGH: FTIR done on October 5th, 2015; is that a fair 14 15 15 Q. Are you representing to the Court that you understanding? 16 did FTIR analysis of UV-treated specimens or samples 16 A. The FTIR that was done on October 5th, 17 prior to October 5th, 2015? 17 2015, is contained in the folder labeled 18 A. Yes. 18 2015-10-05 Repeat FTIR in the document entitled: 19 Q. Okay. You just can't tell me right now 19 "2015-10-05 Summary." 20 which samples were analyzed prior to October 5th, 20 Q. Okay. 21 21 2015 ---A. Included in that folder is a background 22 MR. HUTCHINSON: And just -- and just 22 file, a background image file, a file named 23 let --23 "QUV 6 .csv," an image file entitled: "QUV 6 ," and 24 another QUV file labeled "QUV 6 zoom." BY MR. THORNBURGH: 24 25 MR. THORNBURGH: Madam Court Reporter, 25 Q. -- is that correct? Page 83 Page 85 1 MR. HUTCHINSON: And just let the record 1 were you able to -- did you -- were you able to 2 2 reflect that are you asking her to look at documents print out Exhibit No -- or Document No. 13A and 13B? 3 on flash drives and you have provided no computer 3 (Whereupon, a brief discussion off the 4 for the witness to review the flash drives, sir. 4 record.) 5 5 MR. THORNBURGH: Excuse me. Excuse me. MR. THORNBURGH: Actually, strike that. 6 Chad --6 Q. So I think I -- I think I understand your 7 7 MR. HUTCHINSON: Do you understand? testimony. 8 MR. THORNBURGH: Chad, Chad, Chad, stop 8 Your testimony is the only -- the only 9 9 samples that were rerun on October 5th of 2015 are 10 MR. HUTCHINSON: No. You are asking her 10 the documents -- are the -- are the FTIR spectra 11 about documents on the flash drive --11 that are contained within the file folder that you (Overlapping speakers.) 12 12 just identified? 13 MR. THORNBURGH: It's my choice. You are 13 MR. HUTCHINSON: Object to form. 14 wasting my time. 14 BY MR. THORNBURGH: 15 MR. HUTCHINSON: You are wasting this 15 Q. That -- is that your testimony? 16 witness' time, more importantly. 16 A. Yes. We did repeat FTIR spectra on -- to 17 MR. THORNBURGH: So -- I'm just trying to 17 repeat the spectra that were already acquired after 18 understand where we are. 18 the QUV samples were processed so that we could save 19 19 Q. So you -- all I said was you are a background spectrum and show that the spectrum 20 20 were the same as the previously acquired spectra. representing to the Court -- and let me withdraw 21 21 Q. Okay. Now, Exhibit -- I'm going to that question. 22 You still understand, even though we have 22 represent to you as an officer of the Court that 23 had breaks, that you are under oath, right, 23 Exhibit No. 16 is the metadata for the FTIR spectra 24 Dr. Benight? 24 of Sample No. 4, okay? 25 25 A. Yes, I understand. And Exhibit No. 16 indicates that the FTIR

#### Page 86 Page 88 1 spectra performed on Sample No. 4 was also done on 1 question, I think we'll be out of here in short 2 October 5th, 2015, okay? That's what the metadata 2 3 shows. So what I don't have is FTIR -- well, let me 3 MR. THORNBURGH: Chad -- Chad, I would 4 4 ask you this question. appreciate -- we would be out of here a lot quicker 5 5 Let's assume with me that -- that Sample if your witness would answer my questions and you 6 6 No. 4 and Sample No. 6 of the UV-treated samples would stop speaking. 7 7 were analyzed using FTIR microscopy on October 5th MR. HUTCHINSON: The witness is answering 8 of 2015. 8 your questions. You just don't like to hear what 9 Does that mean that Sample No. 4 and 9 she is saying. 10 10 Sample No. 6 were not submitted or processed using MR. THORNBURGH: Stop. So -- no, that's 11 paraffin or resin and submitted for histology 11 not true. 12 12 Q. Dr. Benight, whatever sample was analyzed analysis? 13 13 MR. HUTCHINSON: Object to form. on October 5th, 2015, okay, at some point, that --THE WITNESS: Can you repeat the question, 14 after the QUV treatment and after the scanning 14 15 please? 15 electron microscopy images were done, that sample, BY MR. THORNBURGH: 16 16 whatever sample that was that was analyzed using 17 Q. Yes. I'm -- here's what I'm trying to 17 FTIR on October 5th, 2015, would have been stored 18 figure out, and I'm, you know, doing it the best I 18 somewhere, I assume. 19 can by piecing together data from things that were 19 Where was that sample stored? 20 20 produced. A. In my office. 21 21 I'm trying to understand what samples, Q. Okay. And what do you mean by "in your 22 what UV-treated samples were processed for histology 22 office"? 23 purposes? 23 A. At Exponent in Menlo Park, California, 24 A. UV samples that were processed in the same 24 at --25 batch as the spectra of these samples were sent to 25 Q. Okay. Was it --Page 87 Page 89 1 be processed, embedded, and stained. I cannot open A. Oh, I'm not finished. 2 a document on the flash drive, it's part of the 2 Q. Sorry. Go ahead. 3 production, entitled: "QUV Oxidized Mesh No. 4." 3 A. At 149 Commonwealth Drive, Menlo Park, 4 It's likely that it was saved under a 4 California --5 5 different file name, hence why you have metadata Q. Okay. 6 6 A. -- 94025. with that date. We conducted FTIR spectra --7 7 Q. Okay. That's not my --Q. Dr. Benight, what type of container was 8 8 A. -- of the QUV oxidized mesh after the QUV that sample stored in? 9 process had completed. 9 A. It was stored in an aluminum pan with 10 And we repeated FTIR spectra on 10 another aluminum pan cover on it. 11 October 5th, 2015, in order to save a background 11 Q. What was the room temperature? 12 scan spectrum and also show that the resultant 12 A. I don't have a thermometer in my office, 13 13 spectrum from October 5th, 2015, is the same and but the conditions are at ambient conditions. 14 similar to the spectra acquired after the QUV 14 Q. How long after the scanning electron 15 process had been completed. 15 microscopy was performed -- how long was it stored 16 Q. Okay. So let's -- so I don't think you 16 between the -- strike that. 17 answered my question, but let's try to move on. 17 Let me withdraw that question. 18 MR. HUTCHINSON: Hey, Dan. I'm going to 18 How long was it stored in your office at 19 19 ask that you -unknown room temperatures from the date that the 20 MR. THORNBURGH: So hold on. Hold on. 20 scanning electron microscopy was done until 21 MR. HUTCHINSON: No, I'm going to ask that 21 October 5th of 2015? 22 you stop the commentary of, "So you I don't think 22 A. We performed FTIR spectra on QUV process 23 you have answered my question. I'm just trying to 23 samples after the QUV process had completed and we 24 piece together stuff." 24 analyzed them with SEM. I believe that that was in 25 25 If you just succinctly state your August or September.

#### Page 90 Page 92 1 Q. Do you know precisely what date -- strike 1 that half of that sample could be processed using 2 that. 2 the resin protocol and the other half of that sample 3 So there -- so the sample that was 3 through paraffin protocol? 4 analyzed using FTIR was sitting in an aluminum 4 A. I believe so, yes. 5 5 Q. Would that be Sample No. 5, because I container in your office for several weeks? 6 A. The sample that was recorded with FTIR on 6 didn't see any FTIR on Sample No. 5. 7 7 October 5th, 2015, was a repeat experiment from the So is it safe to assume that Sample No. 5 8 8 is the sample that was divided in half and treated same batch that was performed after the QUV process 9 had finished, and the spectra are similar, sir. 9 with the paraffin and the resin? 10 10 MR. HUTCHINSON: Object to form. Dan, you Q. Did you produce to me the similar FTIR 11 spectra that would have been conducted of Sample No. 11 have asked two questions there. 12 4 that was done prior to October 5th of 2015 to 12 BY MR. THORNBURGH: 13 demonstrate to me that they are similar? 13 Q. Is -- did you understand the question, 14 14 A. I believe that I did. I cannot open the Doctor? 15 15 document on the flash drive. A. The QUV sample sent to the lab is 16 16 indicated in their paperwork as Sample No. 2. Q. Okay. So let me ask you this question. 17 17 After the scanning electron microscopy Q. Well, this is what I'm trying to 18 work was performed on the QUV-treated samples, what 18 understand, okay. 19 samples were sent to be embedded in either paraffin 19 When you received the pristine sample and 20 20 then started to divide the samples up, would you 21 21 A. Samples that had been exposed by QUV and have identified each one of those pieces at -- with 22 samples that had been -- undergone the chemically 22 a specific catalog number or identification number? 23 oxidizing protocol given in the IUGA proceedings 23 A. From the original pristine TVT mesh, 24 paper authored by Dr. Guelcher, plaintiffs' expert. 24 samples were cut so that they can be exposed to QUV 25 Q. Okay. So let's talk about the QUV-treated 25 oxidation. Page 91 Page 93 1 samples first, okay? 1 And additional samples were cut so that 2 A. Okay. 2 they could undergo -- plaintiffs' expert's protocol, 3 Q. The -- obviously the specimen -- well, so 3 Dr. Scott Guelcher, as indicated in his IUGA 4 4 you say -- I think your testimony is all specimens conference proceedings paper. 5 5 In addition, separate pieces were cut to that were treated -- all -- strike that. 6 6 I think your testimony is all samples that represent controls of pristine, out-of-the-box 7 7 were treated with OUV and intentionally Prolene mesh. 8 8 photooxidized were sent to be processed either using Q. Would -- move to strike. Nonresponsive. 9 paraffin or resin; is that correct? 9 Would you agree with me that the sample 10 A. Samples from the same batch of QUV 10 size that you -- this is just generally speaking, 11 treatment were sent to Histion for processing, 11 the sample size that you use affects the ultimate 12 12 reliability of your scientific studies and results? embedding, and staining. 13 13 Q. Obviously the sample that was -- that you MR. HUTCHINSON: Object to form. 14 did a repeat FTIR on October 5th, 2015, wasn't a 14 THE WITNESS: Can you please repeat the 15 sample that was submitted for the paraffin or resin 15 question? 16 processing, correct? 16 BY MR. THORNBURGH: 17 Q. Would you agree with me that the sample 17 A. That was a sample exposed in the same QUV 18 chamber as the other samples sent to Histion for 18 size that you as a scientist may use will ultimately 19 processing, embedding, and staining. 19 affect the reliability of your results? 20 20 Q. Okay. How many samples from the QUV A. This was a simple set of control 21 process were submitted for paraffin and resin 21 experiments done to show that intentionally oxidized 22 processing? 22 Prolene mesh and investigate whether that stains 23 A. I believe that one sample was submitted, 23 with H&E. 24 indicated as Number 2 in the microscopy images. 24 Q. Well, just tell me generally, as a 25 Q. And was that sample divided in half so 25 scientist, what they -- what does confidence mean to

	Page 94		Page 96
1	you?	1	THE WITNESS: In completing studies and
2	A. I'm not prepared to offer any opinions	2	conducting experiments, I set out to follow the
3	today on that.	3	scientific method, in that I have a hypothesis and I
4	Q. Well, Doctor, just I mean, you have a	4	test it.
5	Ph.D., right?	5	BY MR. THORNBURGH:
6	A. I have a Ph.D. in chemistry.	6	Q. Okay. But as part of that study
7	Q. Okay. And you have worked in a lab for	7	development, isn't it important that you identify
8	several years, right, one and a half years at	8	the power part of the scientific process when you
9	Exponent and several years at Dalton Research Group,	9	develop a study? In other words, you want a study
10	right?	10	to be powered, right?
11	A. Exponent is an engineering consulting	11	MR. HUTCHINSON: Object to form.
12	firm. It's true, we do have laboratories.	12	Compound.
13	I have also worked in an academic research	13	BY MR. THORNBURGH:
14	lab during my tenure at the University of	14	Q. Do you understand what I mean, Doctor?
15	Washington.	15	I mean, you are a scientist. You have
16	Q. Well, you	16	worked at labs. You have conducted studies. You
17	A. And I also worked in a laboratory while I	17	have a Ph.D.
18	was a postdoc at Stanford University. In addition,	18	Do you understand what I mean by
19	I worked in a laboratory as an undergraduate	19	developing a study that is sufficiently powered?
20	researcher at Stanford for about two years.	20	MR. HUTCHINSON: Same objection.
21	Q. Okay. So with all that background in mind	21	THE WITNESS: I don't understand what you
22	and that experience that you have working at a lab	22	mean by "powered."
23	as a scientist, in the scientific community, is	23	BY MR. THORNBURGH:
24	setting out a confidence level part of the	24	Q. Well, do you understand that the greater
25	scientific process when you develop a study?	25	number of samples
23	scientific process when you develop a study:	23	number of samples
	Page 95		Page 97
1	MR. HUTCHINSON: Object to form. Been	1	A. Greater than what number of samples?
2	asked and answered, Counsel.	2	Q. Greater than N equals one.
3	THE WITNESS: We followed the scientific	3	A. I don't understand the question.
4	method in the in conducting the experiments	4	Q. Would you agree with
5	summarized in Dr. MacLean's microscopy report.	5	A. I would like to take a break.
6	BY MR. THORNBURGH:	6	Q. Hold on. Let me just ask you a question.
7	Q. You didn't answer my question, Doctor.	7	A. Oh, I would like to take a break now.
8	My question is, when you develop a	8	MR. HUTCHINSON: Yeah, that's fine,
9	study have you ever developed a study, Doctor?	9	Dr. Benight. You can take a break.
10	A. Yes, I have conducted experiments as part	10	I am going to stand up, too.
11	of a project and/or study.	11	(Whereupon, a brief discussion off the
12	Q. And when and when you have done that in	12	record.)
13	the past, as part of developing the study, did you	13	MR. THORNBURGH: Yeah, we'll go off the
14	set out a confidence level that you wanted to meet	14	record. If they are taking a break, we're going to
15	in order to establish the reliability of your	15	go off the record.
16	results?	16	MR. HUTCHINSON: Okay.
17	A. Can you please repeat the question?	17	MR. THORNBURGH: We're not counting record
18	Q. In your experience, your past experience	18	time when you guys are taking a break.
19	in doing studies or experiments developing	19	MR. HUTCHINSON: Okay, that's fine.
20	experiments or studies, as part of that process,	20	
21			MR. THORNBURGH: Come on, Chad.
21	isn't it true that you would have set out a	21	THE VIDEOGRAPHER: Going off the record at
	confidence level as part of the scientific process	22	2:01.
23	that you undertook?	23	(Whereupon, a brief recess was taken.) THE VIDEOGRAPHER: Back on the record at
21			THE VILLER APHER: Back on the record at
24 25	MR. HUTCHINSON: Objection. Asked and answered.	25	2:09.

	Page 98		Page 100
1 BY MR. THORNBUR	tGH:	1	BY MR. THORNBURGH:
2 O. Doctor, before	we went off the record, I	2	Q. Right. And you understand you actually
-	general questions about	3	do understand what "confidence level" means, right?
4 statistical analysis and	_	4	A. Sir, I can't speak to what my colleagues
5 confidence intervals an		5	would think.
6 nature, including samp	-	6	Q. That wasn't my question.
	u know, this deposition is	7	My question was, you actually do
8 going to be public info		8	understand what "confidence level" means, don't you?
0 0 1	ere to assume with me that	9	A. It's my understanding that confidence
10 a colleague of yours w		10	level has to do with statistics.
deposition transcript, a		11	Q. Uh-huh. And you understand that there
	agues, who may read your	12	that for example, you understand what 90 the
	hat you do not understand	13	confidence level of 95 would be or .95, an alpha
14 what a confidence inter	rval is?	14	.95? Do you understand what I mean by those terms?
15 MR. HUTCHIN	SON: Object to form. And	15	MR. HUTCHINSON: Object to form. Counsel,
	ng this witness that this is	16	in what context are you referring to?
<u> </u>	you handed all the exhibits	17	MR. THORNBURGH: Confidence level. The
that you have handed,	is that are is that what	18	confidence level with an alpha of .95.
19 you consider to be pub	lic documents?	19	Q. Do you understand what that is?
20 MR. THORNBU	JRGH: Well, it may become	20	A. I know that alpha is a Greek letter, and
21 public. I don't know th	nat anybody has moved to	21	if we're talking about confidence intervals, that's
22 to keep this deposition	confidential. I don't see	22	part of statistics.
23 any proprietary inform	ation. But that's besides the	23	Q. Okay. Well, what is the confidence level
24 point.		24	when the N equals one?
25 MR. HUTCHIN	SON: Okay. Well, that's my	25	MR. HUTCHINSON: Object to form.
	Page 99		
			1030 101
1 objection to the to the	e question. So why don't	1	
	e question. So why don't	1 2	THE WITNESS: Sir, confidence level has to
2 you remove that, and I'	ll withdraw my objection.	2	THE WITNESS: Sir, confidence level has to do with statistics. I have
<ul><li>you remove that, and I'</li><li>BY MR. THORNBURG</li></ul>	ll withdraw my objection. GH:		THE WITNESS: Sir, confidence level has to do with statistics. I have BY MR. THORNBURGH:
2 you remove that, and I' 3 BY MR. THORNBURG 4 Q. Well, if a collea	Il withdraw my objection. GH: ague were to read your	2	THE WITNESS: Sir, confidence level has to do with statistics. I have
you remove that, and I' BY MR. THORNBURG Q. Well, if a collea let me let me ask you	Il withdraw my objection. GH: ague were to read your u this question.	2 3 4	THE WITNESS: Sir, confidence level has to do with statistics. I have BY MR. THORNBURGH: Q. In fact, it's actually MR. HUTCHINSON: I'm sorry. Dr. Benight
2 you remove that, and I' 3 BY MR. THORNBURG 4 Q. Well, if a collea 5 let me let me ask you 6 If Larry Dalton	Il withdraw my objection. GH: ague were to read your	2 3 4 5	THE WITNESS: Sir, confidence level has to do with statistics. I have BY MR. THORNBURGH: Q. In fact, it's actually
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you remove that, and I' BY MR. THORNBURG Q. Well, if a collea let me let me ask you If Larry Dalton Dalton is, right? A. Larry Dalton was school. Q. Right. And if I this deposition transcrip testimony that you don' what confidence level r you think he would fee Would you want colleagues or would yo helieve that you, a scier Stanford and at Washir Dalton Research Group confidence level is? MR. HUTCHINS Mischaracterizes her te	Il withdraw my objection. GH: ague were to read your a this question you know who Larry as my advisor in graduate  Larry Dalton was to read pt, and he read your 't know what a confidence means, would he be how do al about well, strike that do you want your ou want your colleagues to antist who studied both at agton University and at the ob, didn't understand what a  SON: Object to form.  stimony.  I can't speak for the ues, sir, and Larry Dalton has	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: Sir, confidence level has to do with statistics. I have BY MR. THORNBURGH: Q. In fact, it's actually MR. HUTCHINSON: I'm sorry. Dr. Benight was continuing to you may not have heard her, Dan. That's fine. MR. THORNBURGH: I didn't. I didn't. MR. HUTCHINSON: She was continuing to answer your question. So, Dr. Benight, go ahead. MR. THORNBURGH: And I'm sorry. And part of the problem of doing it by phone is I don't get to see your mouth or your movement, so it's difficult. MR. HUTCHINSON: That's fine. BY MR. THORNBURGH: Q. I don't mean to speak over you, Doctor. MR. HUTCHINSON: I tell you, that's fine. No big deal. No big deal. I'm just letting the doctor finish her answer. THE WITNESS: 95 percent what you are

22 (Whereupon, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample,  25 page 103  1 correct?") 2 THE WITNESS: We didn't carry out any 3 statistical analysis as part of our investigation to 4 see whether intentionally oxidized Prolene mesh 5 stains. 6 BY MR. THORNBURGH: 7 Q. I understand. If I would have wanted to 8 know that answer, I would have asked my question a 9 little bit differently. But my question was very 10 specific. 11 My question is, you can't perform a 12 statistical analysis who noy only have one sample? 13 MR. HUTCHINSON: Object to form. 14 THE WITNESS: We submitted several 15 different samples for processing at Histion. 16 BY MR. THORNBURGH: 17 Q. You - well, you only submitted - you 18 testified earlier that you only submitted one 19 UV-treated sample, right? 20 A. Oh, if you are talking about specifically 21 UV-treated sample, we submitted one UV-treated 22 sample to Histion for processing, correct? 23 A. If by "power," you mean part of a statistical analysis, we didn't conduct any statistical analysis, we didn't conduct any statistical analysis as part of this investigation.  Page 105  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated sample to Hove wanted to you the power that they wanted prior to performing any testing of the QUV-treated sample, it have wanted to you the power that they wanted prior to performing any testing of the QUV-treated sample, our performing any testing of the QUV-treated sample, it have wanted to you the power that they wanted prior to performing any testing of the QUV-treated sample to Histion was very 10 project, "is." Q. Okay. So let's look at the single sample - well, let's strike that. Let's look at the Histion workbook - or the Histion exhibit - document. I think it was 1 think it was marked Exhibit No. 1. A. In front of me I have two Histion documents, Exhibit No. 1, Histion histopatholo	analysis with an No fone, correct?  MR, HUTCHINSON: Object to form.  THE WITNESS: We didn't perform any statistical analysis as part of this investigation.  BY MR, THORNBURGH:  Responsible to do a statistical tanalysis with only one sample, correct?  MR, HUTCHINSON: Object to form.  THE WITNESS: We didn't carry out any statistical analysis with only one sample, correct?  MR, HUTCHINSON: Object to form.  THE WITNESS: The experiments that we carried out were a simple set of control experiments to investigate whether intentionally oxidized protent to investigate whether intentionally oxidized protent can be applied to investigate whether intentionally oxidized protent can be applied to investigate whether intentionally oxidized protent can be applied to investigate whether intentionally oxidized protent can be applied to investigation to the intentionally oxidized protent can be applied to investigation to the protent can be applied to investigation to the protent can be applied t		Page 102		Page 104
AR. HUTCHINSON: Object to form.  THE WITNESS: We didn't perform any statistical analysis as part of this investigation that was summarized in Dr. MacLear's report.  By MR. THORNBURGH:  O, Right. And the reason that you didn't, in fact strike that.  In twould be impossible to do a statistical analysis with only one sample, correct?  THE WITNESS: The experiments that we carried our were a simple set of control experiments to investigate whether intentionally oxidized to intentionally oxidized problems of their reports.  The WITNESS: The experiments that we carried our were a simple set of control experiments to investigate whether intentionally oxidized problems are statistical analysis with only one sample, over a fact of the weak of the transport of the weak	MR. HUTCHINSON: Object to form.  THE WITNESS: We didn't perform any  statistical analysis as part of this investigation that was summarized in Dr. MacLear's report.  BY MR. THORNBURGH:  Q. Right. And the reason that you didn't, in fact — strike that.  It would be impossible to do a statistical analysis with only one sample, correct?  MR. HUTCHINSON: Object to form.  THE WITNESS: The experiments that we analysis with only one sample, correct?  MR. HUTCHINSON: Object to form.  THE WITNESS: The experiments that we analysis as part of the impossible to do a statistical analysis as part of the impossible to do a statistical analysis as part of the impossible to do a statistical analysis as part of the impossible to do a statistical analysis with only one sample, or correct?  THE WITNESS: The experiments what we are also investigated whether intentionally oxidized by the control experiments were done because plant of the record question only, clay?  Whereupon, the reporter read the record as a follows:  Page 103  THE WITNESS: We didn't carry out any statistical analysis with only one sample,  Page 103  Page 103  Page 104  A. Sit, we didn't perform any statistical analysis was part of the wine stigation to a set whether intentionally oxidized to the record as even whether intentionally oxidized to the reporter read the record as even whether intentionally oxidized to a set whether inten	1	statistical analysis comparative or statistical	1	sent to Histion, you cannot perform a statistical
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5 statistical analysis as part of this investigation 6 that was summarized in Dr. MacLean's report. 7 BY MR. THORNBURGH: 8 Q. Right. And the reason that you didn't,— 9 in fact—strike that. 10 It would be impossible to do a statistical 11 analysis with only one sample, correct? 12 MR. HITCHINSON: Object to form. 13 THE WITNESS: The experiments that we asked my question as statistical analysis as part of this investigation. This investigation was a simple set of control experiments that we asked my question as statistical analysis as part of the single UV-treated sample that was sent to Histion? 14 A. Sir, we didn't perform any statistical analysis as part of the single UV-treated sample that was sent to Histion? 15 In would be impossible to do a statistical that was sent to Histion? 16 Prolem enesh stains with ItaE: 17 MR. THORNBURGH: Madium Court Reporter, can you read back my question? 18 Q. And then, Dr. Benight, listen to the question analysis and provided prolements as part of their reports. 19 Q. And then, Dr. Benight, listen to the question analysis may not processing, correct? 20 question that she reads back and try to answer that question only, okay? 21 (Whereupon, the reporter read the record as follows: 22 (Whereupon, the reporter read the record as follows: 23 statistical analysis with only one sample, 24 "Question: It would be impossible to do a statistical analysis as part of our investigation to a statistical analysis as part of our investigation to statistical analysis as part of our propriet part of our processing, correct?  10 Q. Prior to the study, did anybody define for you th	statistical analysis as part of this investigation that was summarized in Dr. MacLear's report.  RYMR. THORNBURGH: Q. Right. And the reason that you didn't,— in fact—strike that. It would be impossible to do a statistical analysis with only one sample, correct?  MR. HUTCHINSON: Object to form.  M	3	MR. HUTCHINSON: Object to form.	3	MR. HUTCHINSON: Object to form.
that was summarized in De MacLean's report.  BY MR. THORNBURGH:  1	that was summarized in Dr. MacLean's report.  BY MR. THORNBURGH:  rische that.  Ry Q. Right. And the reason that you didn't, in fact strike that.  Ry Well, can you tell me what your confidence level, had you performed a statistical analysis, would have been for the single UV-treated sample that was sent to Histion or the statistical analysis with only one sample, correct?  A. Sir, we didn't perform any statistical analysis as part of this investigation. This investigate whether intentionally oxidized  Ry HE WITNIESS: The experiments that we carried out were a simple set of control experiments  rich investigate whether intentionally oxidized  RY THORNBURGH: Madam Court Reporter, can you tand back my question only, okay?  RY THORNBURGH: Madam Court Reporter, can you have been for the single UV-treated sample that was sent to Histoinon?  A. Sir, we didn't perform any statistical analysis as part of this investigation was a simple set of control experiments done to investigate whether intentionally oxidized Prolene stains with H&E.  These experiments were done because plaintiffs' experts, Dr. lakovlev and Dr. Guelcher, intentionally oxidized the profession only, okay?  RY Question: It would be impossible to do a statistical analysis with only one sample,  Page 103  Page 103  Page 104  Page 105  A. I don't perform any statistical analysis as part of this investigation to set whether intentionally oxidized Prolene mesh stains.  Page 105  Page	4	THE WITNESS: We didn't perform any	4	THE WITNESS: Sir, we didn't perform any
BY MR. THORNBURGH:  8 Q. Right. And the case on that you didn't, 9 in fact - strike that.  10 It would be impossible to do a statistical 11 analysis with only one sample, correct? 12 MR. HUTCHINSON: Object to form. 13 THE WITNESS: The experiments that we 14 carried out were a simple set of control experiments 15 to investigate whether intentionally oxidized 16 Prolean mesh statis with H&E. 17 MR. THORNBURGH: Madam Court Reporter, can 18 you read back my question? 19 Q. And then, Dr. Benight, listen to the 10 question that she reads back and try to answer that 12 question only, okay? 12 (Whereupon, the reporter read the record 13 as follows: 14 "Question: It would be impossible to do a 15 statistical analysis with only one sample, 16 Page 103 1 correct?") 1 THE WITNESS: We didn't carry out any 1 statistical analysis as part of our investigation to 1 see whether intentionally oxidized 2 (Whereupon, the reporter read the record 2 see whether intentionally oxidized Prolean mesh 1 statis. 2 Page 103 2 Correct?") 2 Understand. If I would have wanted to 2 know that answer, I would have wanted to 3 know that answer, I would have asked my question a little bit differently. But my question was very 3 specific. 3 MR. HUTCHINSON: Object to form. 4 THE WITNESS: We submitted several 5 THE WITNESS: We submitted several 6 MR. HUTCHINSON: Object to form. 6 MR. HUTCHINSON: Object to form. 7 Q. You - well, you only submitted - you 16 testified earlier that you only submitted one 17 UV-treated sample, right? 2 Q. You - well, you only submitted one 18 UV-treated sample to Histion for processing, embedding, and 2 statistical analysis as part of this investigation. 2 MR. BUTCHINSON: Object to form. 3 MR. HUTCHINSON: Object to form. 4 THE WITNESS: We submitted one UV-treated sample to Histion for processing, embedding, and 2 Victoreated sample, vight?  3 A. Oh, if you are talking about specifically 2 UV-treated sample, vight? 3 A. Oh, if you are talking about specifically 3 UV-treated sample, we submitted one UV-treated 4 C. Q. Ri	Page 103   Page 103   Page 105	5	statistical analysis as part of this investigation	5	statistical analysis as part of this investigation.
8   Q. Right. And the reason that you didn't, —   8   level, had you performed a statistical analysis, in fact – strike that.   9   would have been for the single UV-treated sample that was sent to Histion?   10   the would have sent to Histion?   11   A. Sir, we didn't perform any statistical analysis with only one sample, correct?   11   A. Sir, we didn't perform any statistical analysis and part of this investigation. This investigation was a simple set of control experiments done to investigate whether intentionally oxidized   15   investigation was a simple set of control experiments done to investigate whether intentionally oxidized   15   investigation was a simple set of control experiments done to investigate whether intentionally oxidized   15   intentionally oxidized Prolene stains with H&E.   16   These experiments done to investigate whether intentionally oxidized Prolene stains with H&E.   17   The work of the profession with H&E.   18   These experiments done to investigate whether intentionally oxidized Prolene stains with H&E.   18   These experiments whether intentionally oxidized Prolene stains with H&E.   18   These experiments done to investigate whether intentionally oxidized Prolene stains with H&E.   18   These experiments done to investigation to experiments whether intentionally oxidized Prolene stains with H&E.   18   These experiments done to investigation to experiments done to investigate whether intentionally oxidized Prolene stains with H&E.   18   These experiments done to investigation was a simple set of control experiments whether investigation to experiments done to investigate whether intentionally oxidized Prolene stains with H&E.   18   These experiments whether intentionally oxidized Prolene and plant in the plant investigation to experiments whether investigation to a statistical analysis with only one sample or processing, correct?   23   A. If by Tower, "you mean part of a statistical analysis as part of this investigation to experiments whether investigation to a s	9 in fact – strike that. 9 in fact – strike that. 10 It would be impossible to do a statistical analysis with only one sample, correct? 11 analysis with only one sample, correct? 12 IN HUTCHINSON: Object form. 13 THE WITNESS: The experiments that we carried out were a simple set of control experiments to the carried out were a simple set of control experiments to the carried out were a simple set of control experiments to the carried out were a simple set of control experiments done to investigate whether intentionally oxidized to the carried out were a simple set of control experiments done to investigate whether intentionally oxidized Proleme mesh statis with HAE. 16 Proleme mesh stains with HAE. 17 MR. THORNBURGH: Madam Court Reporter, can you read back my question? 18 you read back my question? 19 Q. And then, Dr. Benight, listen to the 19 question only, okay? 20 question that she reads back and try to answer that 19 question only, okay? 21 question only, okay? 22 (Whereupon, the reporter read the record 22 as follows: 23 as follows: 23 as follows: 24 "Question: It would be impossible to do a 24 statistical analysis with only one sample, 25 statistical analysis as part of our investigation to 3 statistical analysis as part of our investigation to 3 statistical analysis as part of our investigation to 3 see whether intentionally oxidized Proleme mesh statistical analysis as part of our investigation to 3 and provided proleme statistical analysis as part of our investigation to 3 and provided proleme statistical analysis as part of our investigation to 3 and provided	6	that was summarized in Dr. MacLean's report.	6	BY MR. THORNBURGH:
9 In fact – strike that. 10 It would be impossible to do a statistical 11 analysis with only one sample, correct? 12 MR. HUTCHINSON: Object to form. 13 THE WITNESS: The experiments that we 14 carried out were a simple set of control experiments 15 to investigate whether intentionally oxidized 16 Prolene mesh stains with H&E. 17 MR. THORNBURGH: Madam Court Reporter, can 18 you read back my question? 19 Q. And then, Dr. Benight, listen to the 20 question that she reads back and try to answer that 21 question only, okay? 22 (Whereupen, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample, 26 Whereupen and provided the provided one of the provided statistical analysis as part of this investigation was a simple set of control experiments done to investigate whether intentionally oxidized Prolene stains with H&E. 16 These experiments were because plaintiffs' experts, Dr. Iakovlev and Dr. Guelcher, 19 did not perform these control experiments as part of this investigation was a simple set of control experiments done to investigate whether intentionally oxidized Prolene stains with H&E. 17 The WITNESS: We didn't carry out any statistical analysis with only one sample, 20 THE WITNESS: We didn't carry out any statistical analysis as part of this investigation. 21 The witness were statistical analysis as part of this investigation to see whether intentionally oxidized Prolene mesh stains. 22 Farments were does control experiments done to investigation was a simple set of control experiments when the El. 23 The witness of the first or the first or the first or the provent was a simple to the statistical analysis as part of this investigation to set of the first or when the first or the first or the first or the first or the fi	9 in fact – strike that. 10 It would be impossible to do a statistical 11 analysis with only one sample, correct? 12 MR. HUTCHINSON: Object to form. 13 THE WITNESS: The experiments that we 14 carried out were a simple set of control experiments 15 to investigate whether intentionally oxidized 16 Proleen mesh statis with H&E. 17 MR. THORNBURGH: Madam Court Reporter, can 18 you read back any question? 19 Q. And then, Dr. Benight, listen to the 20 question that she reads back and try to answer that 21 question only, okay? 22 (Whercupon, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample.  Page 103  Page 103  Page 104  Page 105  Page 105  Page 105  Page 105  A. If by "power," you mean part of a statistical analysis as part of this investigation. This investigation was a simple set of control experiments done to investigation. This investigation was a simple set of control experiments done to investigation. This investigation was a simple set of control experiments done to investigation. This intentionally oxidized Prolene estains with H&E. These experiments were because plaintiffs' experts, Dr. lakovlev and Dr. Guelcher, did not perform these control experiments as part of their reports. Q. There is no way to calculate power regarding the UV-treated single sample that was sent for - to Histoin for processing, correct? A. If by "power," you mean part of a statistical analysis with only one sample.  Page 103  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment? A. Idon't understand what you mean by "power," siz. Let's look at the Histion workbook or the Histion exhibit document. I think it was s I think it was marked Exhibit No. 1. A. In front of me I have two Histion chain of custody form pertaining to Histion have been for the work of the mean publication of processing, embedding, and staining. Q. Hold on one second. Let me just t	7	BY MR. THORNBURGH:	7	Q. Well, can you tell me what your confidence
9 In fact – strike that. 10 It would be impossible to do a statistical 11 analysis with only one sample, correct? 12 MR. HUTCHINSON: Object to form. 13 THE WITNESS: The experiments that we 14 carried out were a simple set of control experiments 15 to investigate whether intentionally oxidized 16 Prolene mesh stains with H&E. 17 MR. THORNBURGH: Madam Court Reporter, can 18 you read back my question? 19 Q. And then, Dr. Benight, listen to the 20 question that she reads back and try to answer that 21 question only, okay? 22 (Whereupen, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample, 26 Whereupen and provided the provided one of the provided statistical analysis as part of this investigation was a simple set of control experiments done to investigate whether intentionally oxidized Prolene stains with H&E. 16 These experiments were because plaintiffs' experts, Dr. Iakovlev and Dr. Guelcher, 19 did not perform these control experiments as part of this investigation was a simple set of control experiments done to investigate whether intentionally oxidized Prolene stains with H&E. 17 The WITNESS: We didn't carry out any statistical analysis with only one sample, 20 THE WITNESS: We didn't carry out any statistical analysis as part of this investigation. 21 The witness were statistical analysis as part of this investigation to see whether intentionally oxidized Prolene mesh stains. 22 Farments were does control experiments done to investigation was a simple set of control experiments when the El. 23 The witness of the first or the first or the first or the provent was a simple to the statistical analysis as part of this investigation to set of the first or when the first or the first or the first or the first or the fi	9 in fact – strike that. 10 It would be impossible to do a statistical 11 analysis with only one sample, correct? 12 MR. HUTCHINSON: Object to form. 13 THE WITNESS: The experiments that we 14 carried out were a simple set of control experiments 15 to investigate whether intentionally oxidized 16 Proleen mesh statis with H&E. 17 MR. THORNBURGH: Madam Court Reporter, can 18 you read back any question? 19 Q. And then, Dr. Benight, listen to the 20 question that she reads back and try to answer that 21 question only, okay? 22 (Whercupon, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample.  Page 103  Page 103  Page 104  Page 105  Page 105  Page 105  Page 105  A. If by "power," you mean part of a statistical analysis as part of this investigation. This investigation was a simple set of control experiments done to investigation. This investigation was a simple set of control experiments done to investigation. This investigation was a simple set of control experiments done to investigation. This intentionally oxidized Prolene estains with H&E. These experiments were because plaintiffs' experts, Dr. lakovlev and Dr. Guelcher, did not perform these control experiments as part of their reports. Q. There is no way to calculate power regarding the UV-treated single sample that was sent for - to Histoin for processing, correct? A. If by "power," you mean part of a statistical analysis with only one sample.  Page 103  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment? A. Idon't understand what you mean by "power," siz. Let's look at the Histion workbook or the Histion exhibit document. I think it was s I think it was marked Exhibit No. 1. A. In front of me I have two Histion chain of custody form pertaining to Histion have been for the work of the mean publication of processing, embedding, and staining. Q. Hold on one second. Let me just t	8	Q. Right. And the reason that you didn't,	8	level, had you performed a statistical analysis,
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12 MR. HUTCHINSON: Object to form. 13 THE WITNESS: The experiments that we 14 carried out were a simple set of control experiments 15 to investigate whether intentionally oxidized 16 Prolene mesh stains with H&E. 17 MR. THORNBURGH: Madam Court Reporter, can 18 you read back my question? 19 Q. And then, Dr. Benight, listen to the question that she reads back and try to answer that 20 question only, okay? 21 (Whereupon, the reporter read the record 22 as follows: 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample, 25 statistical analysis as part of our investigation to 4 see whether intentionally oxidized Prolene mesh 5 stains. 26 Page 103 27 Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QU-V-treated experiment. 28 Yard, THORNBURGH: 29 G. I understand. If I would have wanted to 8 know that answer, I would have asked my question a 9 little bit differently. But my question was very 10 specific. 11 My question is, you can't perform a 12 statistical analysis when you only have one sample? 13 MR. HUTCHINSON: Object to form. 14 THE WITNESS: We submitted everal 15 different samples for processing at Histion. 16 BY MR. THORNBURGH: 17 Q. You – well, you only submitted one 18 testified earlier that you only submitted one 19 UV-treated sample, right? 20 A. Oh, if you are talking about specifically 21 UV-treated sample, we submitted one UV-treated 22 sample to Histion for processing, cornect? 23 analysis as part of this investigation to intentionally oxidized Prolene stains with H&E.  16 These experiments were done because plaintifies experts, Includency and priorities as plantified one to experiments as part of their reports. 24 "Question only, okay? 25 (A. If by "power," you pare profered a statistical analysis as part of their reports. 26 Page 105  27 Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QU-V-treated experiment? 28 A. Idon	MR. HUTCHINSON: Object to form.  THE WITNESS: The experiments that we carried out were a simple set of control experiments that we investigated whether intentionally oxidized  Page 103  Page 103  Page 105  A. Idon't understand. If I would have wanted to see whether intentionally oxidized Prolene mesh statis.  Page 105  Page 107  Page 108  Page 109  Page 109  A. Idon't understand. If I would have wanted to see whether intentionally oxidized Prolene for you the power final may be project plan, Amendment I, pertaining to Study No. HI5-118, page 1 of 5.  An a Schibist 5, I also have a Histion in the study on you can't perform a statistical analysis when you only submitted one UV-treated sample, right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one tow-treat intentionally oxidized prolene intentionally oxidized prolene take the timentionally oxidized Prolene stains with H&E.  These experiments were done because rintentionally oxidized Prolene take whether intentionally oxidized Prolene take whether intentionally oxidized Prolene stains with H&E.  These experiments were done because hither.  The Witness whether intentionally oxidized Prolene tains with H&E.  These experiments were done because hither.  The Witness whether intentionally oxidized Prolene tains with H&E.  These experiments and Dr. Guelcher, did not	10	It would be impossible to do a statistical	10	
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17    MR. THORNBURGH: Madam Court Reporter, can you read back my question?   18	MR. THORNBURGH: Madam Court Reporter, can you read back my question?  Q. And then, Dr. Benight, listen to the question that she reads back and try to answer that question only, okay?  (Whereupon, the reporter read the record as follows:  "Question: It would be impossible to do a statistical analysis with only one sample,  Page 103  Page 103  Page 105  THE WITNESS: We didn't carry out any statistical analysis as part of our investigation to see whether intentionally oxidized Prolene mesh statiss.  By MR. THORNBURGH:  Q. I understand. If I would have wanted to little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted everal different samples for processing, corposition of processing.  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  By MR. THORNBURGH:  Q. You – well, you only submitted one UV-treated sample, we submitted one UV-treated sample, we submitted one UV-treated sample, we submitted one UV-treated sample to find my documents.  Page 103  Page 105  Page 105  Page 105  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  A. I don't understand what you mean by "power," sir.  Q. Okay. So let's look at the single sample — well, let's strike that.  Let's look at the Histion workbook — or the Histion exhibit — document. I think it was — I think it was marked Exhibit No. 1.  A. In front of me I have two Histion histopathology project plan, Amendment I, pertaining to Histion for documents in front of you; is that right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample of Histion for processing, embedding, and staining.  A. Currently, yes.  Q. Okay. Are	16	·	16	
18    you read back my question?   18    did not perform these control experiments as part of their reports.   20    question that she reads back and try to answer that   20    Q. There is no way to calculate power   21    question only, okay?   21    regarding the UV-treated single sample that was sent   for - to Histion for processing, correct?   23    as follows:   24    "Question: It would be impossible to do a   24    statistical analysis with only one sample,   25    statistical analysis with only one sample,   25    statistical analysis with only one sample,   26    statistical analysis as part of this investigation.   Page 103    Page 105	18    you read back my question?   18    did not perform these control experiments as part of their reports.	17	MR. THORNBURGH: Madam Court Reporter, can	17	•
19 Q. And then, Dr. Benight, listen to the 20 question that she reads back and try to answer that 21 question only, okay? 22 (Whereupon, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample, 25 statistical analysis with only one sample, 26 THE WITNESS: We didn't carry out any 27 statistical analysis as part of our investigation to 28 statistical analysis as part of our investigation to 29 statistical analysis as part of our investigation to 20 see whether intentionally oxidized Prolene mesh 21 statistical analysis as part of our investigation to 22 statistical analysis as part of our investigation to 23 statistical analysis as part of our investigation to 24 see whether intentionally oxidized Prolene mesh 25 statins. 26 BY MR. THORNBURGH: 27 Q. I understand. If I would have wanted to 28 know that answer, I would have asked my question a 39 little bit differently. But my question was very 30 specific. 31 My question is, you can't perform a 31 statistical analysis when you only have one sample? 32 I think it was marked Exhibit No. 1. 33 A. If by "power," you mean part of a 34 statistical analysis as part of our investigation. 34 Page 105  35 Page 105  4 Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment? 4 A. I don't understand what you mean by 5 "power," you mean part of a 4 A. I don't understand what you mean by 6 Page 105  4 A. I don't understand what you mean by 7 "power," you mean part of a 8 tatistical analysis as part of our investigation to 9 little bit differently. But my question was very 10 statistical analysis as part of our investigation to 11 A. I don't understand what you mean by 12 destination and the proper ma and the proper man and the proper	Q. And then, Dr. Benight, listen to the question that she reads back and try to answer that question only, okay?  (Whereupon, the reporter read the record as follows:  (Whereupon, the reporter read the record as follows:  23	18	•		
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22 (Whereupon, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample,  25 statistical analysis with only one sample,  26 Page 103  27 Page 103  28 Page 105  29 Page 105  20 Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  29 A. I don't understand what you mean by statistical analysis as part of our investigation to statins.  20 BY MR. THORNBURGH: 21 O. Van derstand. If I would have wanted to specific.  22 I understand. If I would have wanted to specific.  23 A. If by "power," you mean part of a statistical analysis as part of this investigation.  24 Page 105  25 Page 105  26 Page 105  27 Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  28 A. I don't understand what you mean by "power," siz.  29 Power," siz.  20 Okay. So let's look at the single sample - well, let's strike that.  29 Let's look at the Histion workbook - or the Histion exhibit - document. I think it was  20 I think it was marked Exhibit No. 1.  21 A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion  20 A. Oh, if you are talking about specifically  21 UV-treated sample, right?  22 A. Okay. So I think you said that you have two Histion documents in front of you; is that right?  23 A. Currently, yes.  24 Q. Right. And so my question to you, as it  25 statistical analysis, we didn't conduct any statistical analysis as part of this investigation.  25 statistical analysis as part of this investigation.  26 Page 105  27 A. I fon't the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  28 A. I don't understand what you mean by "power," siz.  29 C. Okay. So let's look at the Histion workbook - or the Histion exhibit - document. I think it was	22 (Whereupon, the reporter read the record 23 as follows: 24 "Question: It would be impossible to do a 25 statistical analysis with only one sample, 25 statistical analysis with only one sample, 26 Page 103  Page 103  Page 105  Page 105  Page 105  Page 105  Page 105  Page 105  Page 106  Page 107  Page 108  Page 109  Page 10				•
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Page 103  Page 103  Page 105  Page 105  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  A. I don't understand what you mean by stains.  BY MR. THORNBURGH: Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH: Q. You well, you only submitted you  testified earlier that you only submitted one UV-treated sample, right? A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample to Histion for processing, embedding, and staining.  Q. Right. And so my question to you, as it  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  A. I don't understand what you mean by "power," sir. Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion chain of custody form pertaining to Study No. H15-118.  Q. You well, you only submitted you  find my document.  Okay. So I think you said that you have two Histion documents in front of you; is that right?  A. Currently, yes. Q. Right. And so my question to you, as it	Page 103  Page 103  Page 105  1 correct?")  THE WITNESS: We didn't carry out any statistical analysis as part of this investigation.  Page 105  Q. Prior to the study, did anybody define for you the power that they wanted prior to performing any testing of the QUV-treated experiment?  A. I don't understand what you mean by statiss.  BY MR. THORNBURGH: Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  MR. HUTCHINSON: Object to form.				
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17 Q. You well, you only submitted you 18 testified earlier that you only submitted one 19 UV-treated sample, right? 20 A. Oh, if you are talking about specifically 21 UV-treated sample, we submitted one UV-treated 22 sample to Histion for processing, embedding, and 23 staining. 24 Q. Right. And so my question to you, as it 25 Ithis you only submitted you 26 Q. Hold on one second. Let me just try to 27 G. Hold on one second. Let me just try to 28 G. Hold on one second. Let me just try to 29 Okay. So I think you said that you have 20 two Histion documents in front of you; is that 21 right? 22 A. Currently, yes. 23 A. Currently, yes. 24 Q. Okay. Are there are there any other	17 Q. You well, you only submitted you 18 testified earlier that you only submitted one 19 UV-treated sample, right? 20 A. Oh, if you are talking about specifically 21 UV-treated sample, we submitted one UV-treated 22 sample to Histion for processing, embedding, and 23 staining. 24 Q. Right. And so my question to you, as it 25 UV-treated sample, we submitted one UV-treated 26 UV-treated sample, we submitted one UV-treated 27 UV-treated sample, we submitted one UV-treated 28 So I think you said that you have 29 two Histion documents in front of you; is that 20 Staining. 21 A. Currently, yes. 22 Q. Okay. Are there are there any other	6 7 8 9 10 11 12 13	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several	5 6 7 8 9 10 11 12 13 14	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.
testified earlier that you only submitted one  18 Q. Hold on one second. Let me just try to  19 UV-treated sample, right?  19 find my document.  20 A. Oh, if you are talking about specifically  21 UV-treated sample, we submitted one UV-treated  22 sample to Histion for processing, embedding, and  23 staining.  24 Q. Hold on one second. Let me just try to  19 find my document.  20 Okay. So I think you said that you have  21 two Histion documents in front of you; is that  22 right?  23 A. Currently, yes.  24 Q. Right. And so my question to you, as it  26 Q. Okay. Are there are there any other	testified earlier that you only submitted one  UV-treated sample, right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated Sample to Histion for processing, embedding, and staining.  Q. Hold on one second. Let me just try to find my document.  Okay. So I think you said that you have two Histion documents in front of you; is that right?  A. Currently, yes.  Q. Right. And so my question to you, as it  Q. Hold on one second. Let me just try to find my document.  A. Okay. So I think you said that you have two Histion documents in front of you; is that right?  Q. Okay. A. Currently, yes.  Q. Okay. Are there are there any other	6 7 8 9 10 11 12 13 14	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.	5 6 7 8 9 10 11 12 13 14 15	"power," sir. Q. Okay. So let's look at the single sample well, let's strike that. Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1. A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5. And as Exhibit 5, I also have a Histion
19 UV-treated sample, right? 20 A. Oh, if you are talking about specifically 21 UV-treated sample, we submitted one UV-treated 22 sample to Histion for processing, embedding, and 23 staining. 24 Q. Right. And so my question to you, as it  19 find my document. 20 Okay. So I think you said that you have 21 two Histion documents in front of you; is that 22 right? 23 A. Currently, yes. 24 Q. Okay. Are there are there any other	19 UV-treated sample, right?  20 A. Oh, if you are talking about specifically 21 UV-treated sample, we submitted one UV-treated 22 sample to Histion for processing, embedding, and 23 staining. 24 Q. Right. And so my question to you, as it  19 find my document. 20 Okay. So I think you said that you have 21 two Histion documents in front of you; is that 22 right? 23 A. Currently, yes. 24 Q. Okay. Are there are there any other	6 7 8 9 10 11 12 13 14 15	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:	5 6 7 8 9 10 11 12 13 14 15	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No.
A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample to Histion for processing, embedding, and staining.  Q. Right. And so my question to you, as it  Okay. So I think you said that you have two Histion documents in front of you; is that right?  A. Currently, yes.  Q. Okay. Are there are there any other	A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample to Histion for processing, embedding, and staining.  Q. Right. And so my question to you, as it  20 Okay. So I think you said that you have two Histion documents in front of you; is that right? A. Currently, yes. Q. Okay. Are there are there any other	6 7 8 9 10 11 12 13 14 15 16	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion. BY MR. THORNBURGH:  Q. You well, you only submitted you	5 6 7 8 9 10 11 12 13 14 15 16 17	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.
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<ul> <li>sample to Histion for processing, embedding, and</li> <li>staining.</li> <li>Q. Right. And so my question to you, as it</li> <li>right?</li> <li>A. Currently, yes.</li> <li>Q. Okay. Are there are there any other</li> </ul>	<ul> <li>sample to Histion for processing, embedding, and</li> <li>staining.</li> <li>Q. Right. And so my question to you, as it</li> <li>right?</li> <li>A. Currently, yes.</li> <li>Q. Okay. Are there are there any other</li> </ul>	6 7 8 9 10 11 12 13 14 15 16 17 18	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:  Q. You well, you only submitted you testified earlier that you only submitted one UV-treated sample, right?	5 6 7 8 9 10 11 12 13 14 15 16 17 18	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.  Q. Hold on one second. Let me just try to find my document.
<ul> <li>staining.</li> <li>Q. Right. And so my question to you, as it</li> <li>Q. Okay. Are there are there any other</li> </ul>	23 staining. 23 A. Currently, yes. 24 Q. Right. And so my question to you, as it 24 Q. Okay. Are there are there any other	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:  Q. You well, you only submitted you testified earlier that you only submitted one UV-treated sample, right?  A. Oh, if you are talking about specifically	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.  Q. Hold on one second. Let me just try to find my document.  Okay. So I think you said that you have
Q. Right. And so my question to you, as it Q. Okay. Are there are there any other	Q. Right. And so my question to you, as it Q. Okay. Are there are there any other	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:  Q. You well, you only submitted you testified earlier that you only submitted one UV-treated sample, right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.  Q. Hold on one second. Let me just try to find my document.  Okay. So I think you said that you have two Histion documents in front of you; is that
		6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:  Q. You well, you only submitted you testified earlier that you only submitted one UV-treated sample, right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample to Histion for processing, embedding, and	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.  Q. Hold on one second. Let me just try to find my document.  Okay. So I think you said that you have two Histion documents in front of you; is that right?
25 relates to the UV-treated single specimen that was   25 additional Histion documents that you are aware of		6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:  Q. You well, you only submitted you testified earlier that you only submitted one UV-treated sample, right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample to Histion for processing, embedding, and staining.	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.  Q. Hold on one second. Let me just try to find my document.  Okay. So I think you said that you have two Histion documents in front of you; is that right?  A. Currently, yes.
	·	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	BY MR. THORNBURGH:  Q. I understand. If I would have wanted to know that answer, I would have asked my question a little bit differently. But my question was very specific.  My question is, you can't perform a statistical analysis when you only have one sample?  MR. HUTCHINSON: Object to form.  THE WITNESS: We submitted several different samples for processing at Histion.  BY MR. THORNBURGH:  Q. You well, you only submitted you testified earlier that you only submitted one UV-treated sample, right?  A. Oh, if you are talking about specifically UV-treated sample, we submitted one UV-treated sample to Histion for processing, embedding, and staining.  Q. Right. And so my question to you, as it	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	"power," sir.  Q. Okay. So let's look at the single sample well, let's strike that.  Let's look at the Histion workbook or the Histion exhibit document. I think it was I think it was marked Exhibit No. 1.  A. In front of me I have two Histion documents, Exhibit No. 4, Histion histopathology project plan, Amendment 1, pertaining to Histion Study No. H15-118, page 1 of 5.  And as Exhibit 5, I also have a Histion chain of custody form pertaining to Study No. H15-118.  Q. Hold on one second. Let me just try to find my document.  Okay. So I think you said that you have two Histion documents in front of you; is that right?  A. Currently, yes.  Q. Okay. Are there are there any other

	Page 106		Page 108
1	other than the two that are in front of you?	1	you would want to ask her whether or not that is on
2	A. I believe that there is another QC record	2	the flash drive that is in front of her right now.
3	that I currently don't have in front of me.	3	MR. THORNBURGH: Well I don't know what
4	Q. By "QC," do you mean quality what does	4	flash drive is in front of her.
5	"QC" mean?	5	MR. HUTCHINSON: Okay. The flash drive is
6	A. Quality control is my understanding.	6	Exhibits No. 6, 7, and 8.
7	MR. HUTCHINSON: And just so the record	7	MR. THORNBURGH: Okay.
8	reflects, you don't have a hardcopy of that in front	8	Q. Which which document has the quality
9	of you, correct?	9	control, the QC Histion document, which exhibit
10	THE WITNESS: Oh, no, but it is included	10	number?
11	on the production.	11	A. I believe it's Exhibit No. 6, and I am
12	MR. HUTCHINSON: Okay. Since Dan	12	putting that into the court reporter's computer now.
13	MR. THORNBURGH: Well	13	Q. Let's do this, okay. I don't want to
14	MR. HUTCHINSON: Since Dan is not here, he	14	waste too much time.
15	couldn't tell whether the flash drives were in front	15	Let's look at the two Histion documents
16	of you or not, and I was just trying to make the	16	that you have in front of you first, okay?
17	record clear.	17	A. Okay.
18	BY MR. THORNBURGH:	18	Q. All right. So the first one, does it say
19	Q. Okay. So what I have in front of me is	19	"Staining Log" at the very top?
20	a I only have two strike that.	20	A. No. Exhibit No. 4 that I have says
21	I have two documents that were produced to	21	"Histion Histopathology Project Plan," and Exhibit
22	me that appear to be documents that came from	22	No. 5 has chain of custody cover page pertaining to
23	Histion.	23	Study No. H15-118.
24	A. Okay.	24	I am opening the thumb drive that is, I
25	Q. I only have two?	25	believe, Exhibit No. 6, where I believe the document
	D 10E	1	
	Page 107		Page 109
1	A. Okay.	1	Page 109 you were referring to is.
1 2		1 2	
	A. Okay.		you were referring to is.
2	<ul><li>A. Okay.</li><li>Q. I don't know what the QC document is, and</li></ul>	2	you were referring to is.  Q. Okay. I so I think I hear what you are
2	A. Okay.  Q. I don't know what the QC document is, and I haven't seen it before.	2 3	you were referring to is.  Q. Okay. I so I think I hear what you are saying.
2 3 4	<ul><li>A. Okay.</li><li>Q. I don't know what the QC document is, and I haven't seen it before.</li><li>A. That was included on the production given</li></ul>	2 3 4	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that
2 3 4 5	<ul><li>A. Okay.</li><li>Q. I don't know what the QC document is, and I haven't seen it before.</li><li>A. That was included on the production given to you prior to Dr. MacLean's testimony.</li></ul>	2 3 4 5	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your
2 3 4 5 6	<ul> <li>A. Okay.</li> <li>Q. I don't know what the QC document is, and</li> <li>I haven't seen it before.</li> <li>A. That was included on the production given</li> <li>to you prior to Dr. MacLean's testimony.</li> <li>Q. Okay. So well, that's what your</li> </ul>	2 3 4 5 6	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?
2 3 4 5 6 7	<ul> <li>A. Okay.</li> <li>Q. I don't know what the QC document is, and</li> <li>I haven't seen it before.</li> <li>A. That was included on the production given</li> <li>to you prior to Dr. MacLean's testimony.</li> <li>Q. Okay. So well, that's what your</li> <li>that's what you believe was given to me prior to</li> </ul>	2 3 4 5 6 7	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you
2 3 4 5 6 7 8	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right?	2 3 4 5 6 7 8	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.
2 3 4 5 6 7 8	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right? MR. HUTCHINSON: Hey, Dan, please do not	2 3 4 5 6 7 8	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.  Q. Okay. What does what does the project
2 3 4 5 6 7 8 9	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right? MR. HUTCHINSON: Hey, Dan, please do not argue with the witness.	2 3 4 5 6 7 8 9	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.  Q. Okay. What does what does the project plan look like?
2 3 4 5 6 7 8 9 10	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right? MR. HUTCHINSON: Hey, Dan, please do not argue with the witness. MR. THORNBURGH: I'm not. I'm just for	2 3 4 5 6 7 8 9 10	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.  Q. Okay. What does what does the project plan look like?  A. It has five pages. On the first page it
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right? MR. HUTCHINSON: Hey, Dan, please do not argue with the witness. MR. THORNBURGH: I'm not. I'm just for the record, I mean, how does she know what was given to me? MR. HUTCHINSON: Well, because she THE WITNESS: It's an exhibit, sir. MR. HUTCHINSON: Hold MR. THORNBURGH: All right. So that's not my MR. HUTCHINSON: Hey, Dan, listen to me. Just I know it's difficult, but you are going to get through it.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.  Q. Okay. What does what does the project plan look like?  A. It has five pages. On the first page it says, "Histion Histopathology Project Plan, Amendment 1." And it says, "Histion Study No. H15-118."  On the second page, there are two signatures, one of Peggy Lalor, Ph.D., of Histion LLC, and another of Mariana Garcia, Ph.D. of Exponent.  And it has different sections. Section 2.0 says, "Introduction and Scope."  And it says, "Mesh implants will be
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right? MR. HUTCHINSON: Hey, Dan, please do not argue with the witness. MR. THORNBURGH: I'm not. I'm just for the record, I mean, how does she know what was given to me? MR. HUTCHINSON: Well, because she THE WITNESS: It's an exhibit, sir. MR. HUTCHINSON: Hold MR. THORNBURGH: All right. So that's not my MR. HUTCHINSON: Hey, Dan, listen to me. Just I know it's difficult, but you are going to get through it. The flash drives that are in front of you	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.  Q. Okay. What does what does the project plan look like?  A. It has five pages. On the first page it says, "Histion Histopathology Project Plan, Amendment 1." And it says, "Histion Study No. H15-118."  On the second page, there are two signatures, one of Peggy Lalor, Ph.D., of Histion LLC, and another of Mariana Garcia, Ph.D. of Exponent.  And it has different sections. Section 2.0 says, "Introduction and Scope."  And it says, "Mesh implants will be provided for slide preparation to determine if H&E
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. Okay. Q. I don't know what the QC document is, and I haven't seen it before. A. That was included on the production given to you prior to Dr. MacLean's testimony. Q. Okay. So well, that's what your that's what you believe was given to me prior to Dr. MacLean's deposition, right? MR. HUTCHINSON: Hey, Dan, please do not argue with the witness. MR. THORNBURGH: I'm not. I'm just for the record, I mean, how does she know what was given to me? MR. HUTCHINSON: Well, because she THE WITNESS: It's an exhibit, sir. MR. HUTCHINSON: Hold MR. THORNBURGH: All right. So that's not my MR. HUTCHINSON: Hey, Dan, listen to me. Just I know it's difficult, but you are going to get through it. The flash drives that are in front of you contain that are in front of the witness, rather,	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	you were referring to is.  Q. Okay. I so I think I hear what you are saying.  The project plan, is that a document that is being produced to me, to to the best of your knowledge, for the first time today?  A. No, I believe that's been produced to you before today.  Q. Okay. What does what does the project plan look like?  A. It has five pages. On the first page it says, "Histion Histopathology Project Plan, Amendment 1." And it says, "Histion Study No. H15-118."  On the second page, there are two signatures, one of Peggy Lalor, Ph.D., of Histion LLC, and another of Mariana Garcia, Ph.D. of Exponent.  And it has different sections. Section 2.0 says, "Introduction and Scope."  And it says, "Mesh implants will be provided for slide preparation to determine if H&E stain will stain the materials. Samples will be

	Page 110		Page 112
1	There is a next section of 3.0,	1	project plan, was produced to you on whatever e-mail
2	"Compliance Statement." There's a Section	2	that I sent you responding to your document
3	Q. Okay.	3	requests.
4	A No. 4.0 of tissue processing and	4	MR. THORNBURGH: I have it. Okay.
5	evaluation methods.	5	So let's go ahead and mark also the
6	And there is a couple subsections under	6	Document No. 3 that I gave to the court reporter,
7	Section 4 that includes the paraffin processing	7	which is the staining log as Exhibit the next
8	protocol and the Technovit processing protocol, as	8	exhibit, which I believe is Exhibit No. 17.
9	well as the staining protocols.	9	(Whereupon, a brief discussion off the
10	And then there is Section No. 5,	10	record.)
11	"Archiving and Disposition of Study-Related	11	(Whereupon, Exhibit 17 was marked for
12	Materials," and Section No. 6, which is an amendment	12	identification.)
13	justification saying that "added a control tissue to	13	BY MR. THORNBURGH:
14	verify staining by H&E."	14	Q. Okay. So Exhibit No. 4, 5, and 17 would
15	Q. Okay.	15	be the documents all the documents that you
16	A. And that's page 5 of the document. That's	16	have strike that.
17	the end of the document.	17	Yeah, Exhibit No. 4, 5, and 17 would be
18	Q. Okay. So I'm going to represent to you	18	all documents that you have in your possession from
19	that that document has never been produced to me	19	Histion; is that correct?
20	prior to today.	20	A. Yes, those documents are from Histion.
21	MR. HUTCHINSON: Dan, I'm	21	Q. Okay. So if we look at Exhibit No. 4,
22	MR. THORNBURGH: Chad, if you believe	22	which is the Histion project plan, Amendment 1?
23	otherwise, that's fine. I don't have	23	A. Okay.
24	MR. HUTCHINSON: Okay. I'm sorry. I'm	24	Q. Was there a prior amendment? Was there a
25	just going to object to the form. I think it	25	prior document?
	Page 111		Page 113
1	mischaracterizes the evidence.	1	A. Yes. All amendments are in red in this
2	MR. THORNBURGH: So	2	Amendment 1 document.
3	MR. HUTCHINSON: And the witness, as we	3	Q. Okay. Great. And if you on Exhibit 4,
4	sit here now, is trying to look on the flash drive	4	if you turn with me to page 3?
5	right now.	5	A. Okay.
6	MR. THORNBURGH: I'm going to go look at	6	Q. It says, "Sample Description."
7	Exhibit No Exhibit No. 5to Dr. MacLean's	7	A. Oh, okay.
8	deposition, which is Exhibit should be Exhibit	8	Q. Okay. So so this indicates that
9	No	9	Histion received an exemplar mesh on August 20th,
10	MR. HUTCHINSON: Oh, I know what you are	10	2015, a QV-oxidized mesh on August 20th of 2015, a
11	talking about. We're talking about the Histion	11	chemical-treated mesh or chemically oxidized mesh
12	project plan?	12	that says, "To be determined," and then a control
13	MR. THORNBURGH: Yes.	13	tissue that says "NA."
13 14	MR. HUTCHINSON: Okay. Yeah. That's what	14	Do you see that?
	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached	14 15	Do you see that? A. Yes.
14	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your	14 15 16	Do you see that?  A. Yes.  Q. And there are on the right column on
14 15	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced	14 15 16 17	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the
14 15 16	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced that document to you.	14 15 16 17 18	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the processing instructions, right?
14 15 16 17	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced	14 15 16 17 18 19	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the processing instructions, right?  A. Yes.
14 15 16 17 18	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced that document to you.	14 15 16 17 18	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the processing instructions, right?  A. Yes.  Q. Okay. So I have a couple questions
14 15 16 17 18 19	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced that document to you.  MR. THORNBURGH: Okay. Okay.	14 15 16 17 18 19 20 21	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the processing instructions, right?  A. Yes.  Q. Okay. So I have a couple questions regarding this.
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14 15 16 17 18 19 20 21	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced that document to you.  MR. THORNBURGH: Okay. Okay.  MR. HUTCHINSON: I'm sorry. Are we on the same page now?	14 15 16 17 18 19 20 21 22 23	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the processing instructions, right?  A. Yes.  Q. Okay. So I have a couple questions regarding this.  So there was one sample for as you testified earlier, there is one QUV oxidized mesh
14 15 16 17 18 19 20 21	MR. HUTCHINSON: Okay. Yeah. That's what I sent to you in my e-mail, remember? I attached that to my e-mail to you when I responded to your seven document requests. That's when I produced that document to you.  MR. THORNBURGH: Okay. Okay.  MR. HUTCHINSON: I'm sorry. Are we on the same page now?  MR. THORNBURGH: I think we are.	14 15 16 17 18 19 20 21 22	Do you see that?  A. Yes.  Q. And there are on the right column on page of this page, under Section 2.0, is the processing instructions, right?  A. Yes.  Q. Okay. So I have a couple questions regarding this.  So there was one sample for as you

#### Page 114 Page 116 1 the other half was the Technovit resin process. 1 the witness a computer and, number two, the court 2 Is that correct? 2 reporter's computer does not have, as we discussed 3 A. Yes. 3 earlier, the appropriate software to open up one of 4 Q. And you -- is it -- am I -- is it fair to 4 the documents. 5 say that you are not -- well, strike that. BY MR. THORNBURGH: б Let me ask -- let me try to understand a 6 Q. But, Dr. Benight, you were part of that 7 little bit. 7 process of cutting that exemplar into pieces, right? 8 And I know we talked about this a little 8 A. Yes. 9 bit earlier. We talked about how the exemplar was 9 Q. Okay. And do you recall how many pieces 10 divided up into different pieces of mesh. 10 you cut off of the exemplar to create or use as 11 Some of that mesh was treated using QUV 11 samples in your various experiments? 12 photooxidation, some of that was treated with 12 MR. HUTCHINSON: Same objections. 13 chemicals to try to oxidize it, and then some of it 13 THE WITNESS: We cut the TVT mesh into 14 was untreated, right? 14 different sets of samples, one for -- to be a 15 MR. HUTCHINSON: Object to form. 15 control exemplar mesh sample, others to be exposed 16 THE WITNESS: If you are referring to the 16 to QUV irradiation prior to processing, embedding, untreated mesh as out-of-the-box Prolene mesh, then 17 17 and staining. 18 And another set was cut and subjected to 18 19 BY MR. THORNBURGH: 19 Dr. Guelcher's protocol, which involves a Cobalt(II) 20 Q. Now, I'm just trying to figure out from 20 chloride solution for -- said to be chemically 21 the exemplar that you got and you -- you cut it into 21 oxidizing. 22 pieces, trying to figure out how many pieces you cut 22 BY MR. THORNBURGH: 23 that into and then how many of those pieces were 23 Q. Did each one of those samples that were 24 24 cut get a identification number assigned to it by sent to Histion. 25 It seems to me, based on what we have seen 25 you or by Exponent? Page 115 Page 117 1 today so far, is that at least -- I think probably 1 A. A sample from -- those that were cut from 2 at most there were three QUV-treated samples, and 2 the TVT mesh, samples were then treated in the 3 one of those samples was sent to Histion? 3 oxidation protocols previously outlined before they 4 MR. HUTCHINSON: Object to form. 4 were sent to Histion lab for processing. 5 5 THE WITNESS: A QUV oxidized mesh sample Q. Okay. Listen, I'm -- maybe you are tired 6 was sent to Histion. 6 or maybe you are hungry. 7 7 BY MR. THORNBURGH: My question was, did you or Exponent 8 8 Q. Okay. Do you know how -- I mean, can assign to each one of those pieces of mesh an 9 you -- sitting right here, can you tell me how many 9 identification number so that you could follow that 10 samples were treated with QUV? Do you know the 10 sample from the different steps in the experiment 11 answer to that? 11 that were conducted? 12 MR. HUTCHINSON: Dan, I'm going to object 12 MR. HUTCHINSON: Object to form. Dan, 13 13 please do not argue with the witness. I have asked to the extent you have already asked and answered 14 that -- you have already question a plethora of 14 you that before. If we do it again, this deposition 15 times already. 15 is over. Do you understand me? 16 MR. THORNBURGH: I understand that, but I 16 MR. THORNBURGH: Chad, I'm -- Chad, I'm 17 never really had -- got an answer for that question. 17 not. Chad, I'm not. I'm really not. So I'm just trying to figure it out. 18 18 MR. HUTCHINSON: Hey, do you understand 19 MR. HUTCHINSON: I understand that. 19 me? 20 20 MR. THORNBURGH: My tone is level. I'm And let the record reflect that are you 21 21 asking a witness specific question about documents not arguing with the witness. I just -- I just want 22 that may be on the three flash drives that we have 22 her to listen to my question and answer my question. 23 produced to you before this deposition. 23 MR. HUTCHINSON: I understand that, but 24 And the witness cannot open up any of the 24 I'm asking if you understand me. 25 25 flash drives because, number one, you didn't provide MR. THORNBURGH: I understand your

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1	unreasonable request, yes.	1	Are we ready to go?
2	MR. HUTCHINSON: No, my question is not	2	THE WITNESS: I have Exhibit 18 in front
3	unreasonable. Do not argue with the witness again.	3	of me.
4	I'm asking, do you understand me?	4	BY MR. THORNBURGH:
5	BY MR. THORNBURGH:	5	Q. Okay. Great. Now, Dr. Benight, I'll
6	Q. Dr. Benight, when those samples were cut	6	represent to you that this is a lab notebook that
7	into individual pieces strike that.	7	was produced by Dr. Ong in the Lewis versus Ethicon
8	When the mesh exemplar was divided into	8	litigation, okay.
9	individual samples, did you record that process of	9	Do you know who Dr. Ong is?
10	cutting that mesh and dividing it into pieces	10	A. Dr. Kevin Ong, I believe he is an Exponent
11	somewhere that I can go to, to look at what was done	11	employee based out of our Philadelphia office.
12	during that process?	12	Q. Okay. And this was represented by Dr. Ong
13	A. Each of the samples cut was either exposed	13	to be the Exponent lab notebooks that were that
14	to the chemical oxidation protocol as stipulated by	14	are used by Exponent scientists, okay? And do you
15	Dr. Guelcher or it was used as an exemplar mesh for	15	see how it says "Exponent" on the top left-hand
16	a control sample or it was exposed to QUV	16	corner?
17	irradiation.	17	A. I see "Exponent" at the top left-hand
18	Q. Okay.	18	corner.
19	A. And then samples from each of those	19	MR. HUTCHINSON: Object to form of the
20	batches were then processed, sent to Histion for	20	last question.
21	processing, embedding, and staining.	21	BY MR. THORNBURGH:
22	Q. Okay.	22	Q. Okay. Okay. And do you see there is a
23	MR. THORNBURGH: Madam Court Reporter, I	23	project name, there is a project number, and then
24	sent some exhibits or documents over today. I	24	there is an author of the document and a date of the
25	think you said that you had those and printed them	25	document identified?
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1	out.	1	A. Yes.
2	(Whereupon, a discussion off the record.)	2	Q. Okay. Have you ever been provided with a
3	MR. THORNBURGH: Let's go ahead and mark	3	lab notebook like the one marked as Exhibit No. 18
4	the Ong 14 as Exhibit No. 18.	4	from Exponent or by Exponent?
5	(Whereupon, a brief discussion off the	5	A. I have seen this stationery before.
6	record.)	6	Q. Okay. Is it are you are you
7	(Whereupon, Exhibit 18 was marked for	7	testifying are you representing that this is not
8	identification.)	8	a lab notebook?
9	MR. HUTCHINSON: Dan, did you send another	9	MR. HUTCHINSON: Object to form.
10	copy for me?	10	BY MR. THORNBURGH:
11	MR. THORNBURGH: Well, I asked for two	11	Q. Because I'm going to tell you Dr. Ong,
12	copies of each of those to be well, I asked for	12	Kevin Ong, another Exponent employee and expert for
13	two copies of Exhibit 18 to be printed. I don't	13	Ethicon, has represented that this is the Exponent
14	know that the court reporter printed two copies.	14	lab notebook that scientists are provided to record
15	MR. HUTCHINSON: Okay.	15	their research and experiments, okay?
16	(Whereupon, a brief discussion off the	16	MR. HUTCHINSON: I'm sorry, Dan, is that a
17	record.)	17	question?
18	MR. THORNBURGH: I'm just going to ask	18	MR. THORNBURGH: So yeah.
1	some general sort of questions about this document.	19	Q. So are you are you testifying different
19			than what Dr. Ong has testified to, that this is
20	MR. HUTCHINSON: Okay. Well, I may	20	=
20 21	MR. HUTCHINSON: Okay. Well, I may here I may just in an effort to speed this along,	21	really not a lab notebook, but it's just stationery?
20 21 22	MR. HUTCHINSON: Okay. Well, I may here I may just in an effort to speed this along, I may just get a copy of it later if I need to.	21 22	really not a lab notebook, but it's just stationery?  MR. HUTCHINSON: Same objection.
20 21 22 23	MR. HUTCHINSON: Okay. Well, I may here I may just in an effort to speed this along, I may just get a copy of it later if I need to. MR. THORNBURGH: Okay. Okay.	21 22 23	really not a lab notebook, but it's just stationery?  MR. HUTCHINSON: Same objection.  Argumentative. Also object to the extent you are
20 21 22	MR. HUTCHINSON: Okay. Well, I may here I may just in an effort to speed this along, I may just get a copy of it later if I need to.	21 22	really not a lab notebook, but it's just stationery?  MR. HUTCHINSON: Same objection.

1 2 3 4 5 6 7 8	You can answer.  MR. THORNBURGH: She has the she has the document in front of her.	1 2	A. It's likely that we did, yes.
3 4 5 6 7	the document in front of her.	2	· · ·
4 5 6 7			Q. Okay. And where is that evidence ID
5 6 7		3	number identified? Where would that have been
6 7	MR. HUTCHINSON: I'm talking about the	4	recorded?
7	I'm talking about the testimony, Counsel.	5	A. As part of our internal QA system.
	MR. THORNBURGH: All right. So	6	Q. Okay. And do you see how they did
Ω	MR. HUTCHINSON: You can answer.	7	scanning electron microscopy of certain areas on
U	THE WITNESS: This looks to be a record of	8	their exemplar?
9	experiments performed written down in handwriting.	9	A. I don't see a reference to SEM. I see a
10	BY MR. THORNBURGH:	10	reference to high-resolution photography
11	Q. Okay. And you were not provided with a	11	Q. Sorry, the optical
12	similar document, right, to use as a lab notebook	12	A and then numbered circles on the
13	for your experiment that you conducted in this case,	13	drawing.
14	correct?	14	Q. You see where they identified the areas of
15	A. I provided a record of all of the	15	the exemplar that would be looked at using
16	experimentation performed in electronic format to	16	high-resolution photography?
17	you, sir.	17	A. I see some labels to that extent, yes.
18	Q. Okay. So let's look at the first page of	18	Q. Okay. Did you label the pieces of mesh
19	Exhibit No. 18.	19	that you divided from the exemplar and give it a
20	Do you see that?	20	specific labeling identification number?
21	A. Yes. I'm on the first page.	21	A. Each of the samples that we cut were then
22	Q. Okay. Do you see that this Exponent	22	either exposed to QUV, chemically oxidized protocol,
23	scientist writes on the day of this experiment that	23	or used as an exemplar for the experiments that are
24	he "will be performing optical microscopy on the	24	summarized in Dr. MacLean's report.
25	exemplar mesh that we received, Exponent Evidence ID	25	Q. Well, how do I know what sample the QUV
			( · · · · · · · · · · · · · · · · · · ·
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1	number."	1	what strike that.
2	You see there is an ID number for the	2	How do I know which QUV sample was sent to
3	evidence, you see that?	3	Histion to be processed?
4	A. Yes.	4	A. Well, all of the samples that were
5	Q. Okay. It says, "The exemplar consists of	5	processed by QUV were in the same QUV chamber and
6	a blue propylene mesh that is attached to two curved	6	exposed similarly, and the SEM images of the samples
7	metal ends. See picture. The mesh has a protective	7	that were exposed looked similar.
8	sheath surrounding it with a split down."	8	So one of those samples that represents
9	Do you see that?	9	the batch was sent to Histion.
10	A. Yes.	10	Q. I'm just trying to understand which sample
11	Q. It says, "High-resolution photographs were	11	was sent, and I think I understand.
12	taken of each numbered circle with a sheath still on	12	A. And I'm
13	it." Then it says, "Picture" "Pictures labeled."	13	Q. If the if the answer is no, they
14	See that?	14	weren't given identification numbers, and I don't
15	A. Yes.	15	know which sample was sent, but I know that the
16	Q. Okay. So when I have a number of	16	sample's from the QUV treatment batch, then
17	different questions related to this document.	17	that's then I understand that, but I need to
18	When you received the exemplar, did you	18	know
19	understand that that exemplar would be evidence in	19	MR. HUTCHINSON: I'm sorry, Dan, is that a
20	this case?	20	question? Can you rephrase your question, please?
21	A. Yes.	21	MR. THORNBURGH: Yeah, I
22	Q. Okay. And did you or somebody at Exponent	22	MR. HUTCHINSON: Just rephrase your
23	assign to the exemplar an evidence ID number, as was	23	question. I think that would be helpful for the
24	done on September 21st, 2013, in the Lewis versus	24	witness.
25	Ethicon experiment?	25	

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1	BY MR. THORNBURGH:	1	under the same conditions was sent to Histion for
2	Q. My question is, I had I think I had a	2	processing, embedding, and staining.
3	couple questions that just haven't been answered.	3	Q. Well, how but how do I know that? How
4	One is, did you provide each sample with an	4	do I know that you sent a sample from the QUV batch
5	identification number?	5	to Histion? Where is the documentation that
6	Do you let me ask this question. Let	6	supports that?
7	me withdraw the last one.	7	MR. HUTCHINSON: Object to form. Compound
8	What is the importance of identifying	8	question. Counsel, will you withdraw that question,
9	samples with identification numbers?	9	please?
10	A. An identification number is used to	10	MR. THORNBURGH: No.
11	identify samples. Also, naming of the samples is a	11	MR. HUTCHINSON: Okay.
12	way to identify samples.	12	THE WITNESS: It's in the chain of custody
13	Q. Okay. So is it is it fair to say that	13	record at Histion.
14	neither you nor Exponent gave each sample that was	14	BY MR. THORNBURGH:
15	treated in QUV a sample identification number?	15	Q. Yeah. But how do I know from looking at
16	A. We numbered them 1 through 6, as I believe	16	Exponent's records that a sample that was treated
17	we discussed earlier.	17	from QUV was actually a sample that was provided to
18	Q. Okay. So which sample, from 1 to 6, was	18	Histion?
19	sent to Histion for the pathology histopathology	19	MR. HUTCHINSON: Objection. Speculation.
20	experiment?	20	Counsel, if you will rephrase the question and stop
21	You do understand that there is a question	21	from asking, "How do how would I know," that
22	pending, right?	22	would be very helpful.
23	A. Yes, sir.	23	MR. THORNBURGH: No. No, I think it is a
24	Q. Okay. Just I assume you were just	24	very important question, and I think the Court would
25	looking, trying to trying to answer the question?	25	think it's an important question. I need to be able
1	A. Oh, yes, sir.	1	to track which QUV sample was provided to Histion
2	Q. Okay. Great.	2	for the experiment.
3	A. From the samples that were sent back, it	3	MR. HUTCHINSON: And
4	appears that QUV oxidized Sample No. 2 was sent to	4	BY MR. THORNBURGH:
5	Histion.	5	Q. And so my question is to you, what
6	Q. Okay. So your testimony is Sample No. 2	6	internal Exponent record identifies which of the QUV
7	was sent to Histion, right?	7	samples was provided to Histion?
8	A. Yes.	8	A. A sample from the batch of samples that
9	Q. Okay. And if you look at the scanning	9	were exposed in the same QUV chamber. One sample
10	electron microscopy that was performed on the QUV	10	from that batch was sent to Histion for processing.
11	the samples and you recall that, right? We did	11	Q. But how do I know that?
12	that went through that process of looking at	12	A. I have testified to that, sir.
13	those SEM images?	13	Q. So the only way for me to know that a
14	MR. HUTCHINSON: Object to form.	14	sample from the QUV batch was sent to Histion for
15	THE WITNESS: Yes, yes.	15	processing is from your testimony today?
16	BY MR. THORNBURGH:	16	MR. HUTCHINSON: Dan, I am going to object
17			
	Q. Okay. And we were able to tell from that	17	to the extent, Dan, the witness has already answered
18		17 18	to the extent, Dan, the witness has already answered your question. She testified that Sample No. 2
18 19	Q. Okay. And we were able to tell from that		
	Q. Okay. And we were able to tell from that process that we did, that line of questioning, that	18	your question. She testified that Sample No. 2
19	Q. Okay. And we were able to tell from that process that we did, that line of questioning, that the samples that were looked at using SEM images	18 19	your question. She testified that Sample No. 2 MR. THORNBURGH: Chad.
19 20	Q. Okay. And we were able to tell from that process that we did, that line of questioning, that the samples that were looked at using SEM images from the batch that was treated in the QUV or UV-treated specimens was Sample No. 4, 5, and 6, right?	18 19 20	your question. She testified that Sample No. 2 MR. THORNBURGH: Chad. MR. HUTCHINSON: was sent to Histion.
19 20 21 22 23	Q. Okay. And we were able to tell from that process that we did, that line of questioning, that the samples that were looked at using SEM images from the batch that was treated in the QUV or UV-treated specimens was Sample No. 4, 5, and 6, right?  Let me let me ask let me	18 19 20 21 22 23	your question. She testified that Sample No. 2 MR. THORNBURGH: Chad. MR. HUTCHINSON: was sent to Histion. MR. THORNBURGH: Chad. MR. HUTCHINSON: Yes. MR. THORNBURGH: My question is which
19 20 21 22 23 24	Q. Okay. And we were able to tell from that process that we did, that line of questioning, that the samples that were looked at using SEM images from the batch that was treated in the QUV or UV-treated specimens was Sample No. 4, 5, and 6, right?  Let me let me ask let me A. A sample that was from the representative	18 19 20 21 22 23 24	your question. She testified that Sample No. 2 MR. THORNBURGH: Chad. MR. HUTCHINSON: was sent to Histion. MR. THORNBURGH: Chad. MR. HUTCHINSON: Yes. MR. THORNBURGH: My question is which Chad, quit coaching the witness.
19 20 21 22 23	Q. Okay. And we were able to tell from that process that we did, that line of questioning, that the samples that were looked at using SEM images from the batch that was treated in the QUV or UV-treated specimens was Sample No. 4, 5, and 6, right?  Let me let me ask let me	18 19 20 21 22 23	your question. She testified that Sample No. 2 MR. THORNBURGH: Chad. MR. HUTCHINSON: was sent to Histion. MR. THORNBURGH: Chad. MR. HUTCHINSON: Yes. MR. THORNBURGH: My question is which

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1	witness.	1	MR. THORNBURGH: Okay. We'll take a
2	MR. THORNBURGH: My but that's a	2	break.
3	document that is on a Histion document.	3	THE VIDEOGRAPHER: This is the end of Tape
4	Q. My question is, what Exponent document	4	No. 2. Going off the record at 2:55.
5	tells me and ensures to me that a QUV-treated sample	5	(Whereupon, a brief recess was taken.)
6	is a sample that was actually provided to Histion?	6	THE VIDEOGRAPHER: This is the beginning
7	A. As I have said, a sample from the samples	7	of Tape No. 3 in the deposition of Dr. Stephanie
8	that were exposed to QUV processing, a sample from	8	Benight. The time is 3:42. We're on the record.
9	that batch was sent to Histion. FTIR and SEM was	9	BY MR. THORNBURGH:
10	also done on more than one of those samples in that	10	Q. Hi, Dr. Benight.
11	batch.	11	A. Hello.
12	That sample was documented in the Histion	12	Q. I hope you had a good lunch.
13	chain of custody as being received by them under	13	A. Yes.
14	Study No. H15-118.	14	Q. Good. Before we went off the record, we
15	Q. Yeah, but yeah, but	15	were talking about the sample that was sent from
16	A. And I actually would like to take a break	16	Exponent strike that.
17	and eat some lunch.	17	Before we went off the record, we were
18	Q. Okay. We can take a break, but, you know,	18	talking about the QUV sample, treated sample of the
19	I have a question I think that is pending but hasn't	19	TVT device that was sent to Histion.
20	been answered yet.	20	Do you recall that?
21	MR. HUTCHINSON: Oh.	21	A. Yes.
22	BY MR. THORNBURGH:	22	Q. And you testified that you had divided or
23	Q. And that is so I would like to have	23	cut six pieces of the pristine mesh off of the
24	just this one question be answered before we take	24	exemplar to conduct the QUV testing; is that
25	the break.	25	correct?
	_ 101		
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1	A. Well, I would like to take a break now. I	1	A. I believe so, yes.
1 2	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I	1 2	<ul><li>A. I believe so, yes.</li><li>Q. Okay. And I and I apologize if I asked</li></ul>
	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.	2 3	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer.
2	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a	2	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an
2 3 4 5	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a caveat, and that is if there is a question that is	2 3 4 5	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an answer, so I'm going to try to ask it again.
2 3 4 5 6	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a caveat, and that is if there is a question that is outstanding	2 3 4 5 6	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an answer, so I'm going to try to ask it again.  Can you point me to any internal Exponent
2 3 4 5 6 7	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a caveat, and that is if there is a question that is outstanding  A. You haven't asked a question.	2 3 4 5 6 7	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an answer, so I'm going to try to ask it again.  Can you point me to any internal Exponent document that will confirm for me or verify to me
2 3 4 5 6 7 8	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a caveat, and that is if there is a question that is outstanding  A. You haven't asked a question.  THE WITNESS: Madam Court Reporter, can	2 3 4 5 6 7 8	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an answer, so I'm going to try to ask it again.  Can you point me to any internal Exponent document that will confirm for me or verify to me that Sample No. 2 was a sample that was actually
2 3 4 5 6 7 8	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a caveat, and that is if there is a question that is outstanding  A. You haven't asked a question.  THE WITNESS: Madam Court Reporter, can you please read back the record where the question	2 3 4 5 6 7 8	A. I believe so, yes. Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an answer, so I'm going to try to ask it again.  Can you point me to any internal Exponent document that will confirm for me or verify to me that Sample No. 2 was a sample that was actually treated using the QUV photooxidation process?
2 3 4 5 6 7 8 9	A. Well, I would like to take a break now. I requested a break. You said at the beginning if I wanted a break, then I could take a break.  Q. Well, but I but I had I had a caveat, and that is if there is a question that is outstanding  A. You haven't asked a question.  THE WITNESS: Madam Court Reporter, can you please read back the record where the question is.	2 3 4 5 6 7 8 9	A. I believe so, yes.  Q. Okay. And I and I apologize if I asked this question before. I don't remember the answer. I'm not sure that I or I'm not sure that I got an answer, so I'm going to try to ask it again.  Can you point me to any internal Exponent document that will confirm for me or verify to me that Sample No. 2 was a sample that was actually treated using the QUV photooxidation process?  A. Sir, I have the items that were part of
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#### Page 134 Page 136 1 and if you were here, you would see that slide, sir. A. I am looking at the -- on the electronic 2 Q. Okay. So who put -- who identified that 2 production, Exhibit No. 6, produced prior to 3 slide as QUV No. 2? 3 Dr. MacLean's testimony. 4 A. Well, these were the sides that were sent 4 And in that microscopy report folder, in 5 5 the SEM folder, and the 2015-08-07 QUV folder, there back to me, and they had to get to the lab somehow, 6 6 are SEM images of Samples 4, Samples 5, and Sample so I sent them to the lab. 7 7 Q. Yeah, but who wrote -- who put -- who 6, which were treated in the same OUV chamber, in 8 wrote on that sample, "QUV No. 2"? 8 the same batch as Sample No. 2, sent to Histion. 9 A. The microscope slide sample? 9 Q. Okay. How do I know that Sample No. 2 was 10 10 treated in the same batch as Samples No. 4, 5, and Q. Yes. 11 A. I don't know whose handwriting it is, but 11 12 it's labeled, "QUV Sample No. 2." 12 MR. HUTCHINSON: Object to form. 13 Q. Okay. So -- but that would -- it would 13 THE WITNESS: I have the remnants from 14 Sample No. 2 that were sent back to me from the lab 14 have been done by somebody at Histion, correct? A. No, I believe this is a slide that was 15 15 and documented in the chain of custody form that I 16 16 received yesterday from the lab, establishing originally sent to Histion from Exponent. 17 17 Q. Okay. Well, let me -- let me ask you this traceability. 18 And, you know, the samples had to get 18 19 Did you do any scanning electron 19 there somehow, so they -- since they were returned 20 20 microscopy of Sample No. 2? 21 21 A. I would have to look in the production, BY MR. THORNBURGH: 22 22 sir. We did scanning electron microscopy on samples Q. Okay. So let me go back to the question 23 23 that were treated in the same QUV chamber at the before that, that I don't think you have answered. 24 24 I believe your testimony is that you have same time as Sample No. 2. 25 25 Q. That wasn't -- obviously that wasn't my scanning electron microscopy of Samples No. 4, 5, Page 135 Page 137 1 and 6, right? 1 question. 2 My question was, did you perform scanning 2 A. Yes, that's correct. 3 electron microscopy on Sample No. 2? 3 Q. Okay. But you do not have scanning 4 MR. HUTCHINSON: Object to form. Also, 4 electron microscopy images of Samples No. 2, 5 asked and answered. Counsel, she just told you 5 6 6 that --A. We acquired scanning electron microscopy 7 7 MR. THORNBURGH: Well -images on Samples 4, 5, and 6, which were processed in the same QUV chamber as Sample No. 2. 8 MR. HUTCHINSON: -- she would have to look 8 9 at the production. 9 Q. Okay. So the answer is no, you don't have 10 BY MR. THORNBURGH: 10 scanning electron microscopy images of Sample No. 11 Q. And which production are you referring to? 11 4 -- I'm sorry, Sample No. 2, correct? 12 Earlier today we marked three flash drives as 12 A. We have scanning electron microscopy 13 13 different exhibits. And so we marked -- Flash Drive images of Samples No. 4, 5, and 6, which were 14 No. 6 was documents that were produced by 14 treated in the same batch as Sample No. 2 that you 15 Dr. MacLean. 15 are referring to. 16 Flash Drive No. 7 were documents -- was 16 Q. I understand that. I'm -- look, I'm not 17 the FTIR and the -- and the photoelectron 17 trying to be difficult here. I just want a yes or 18 spectroscopy documents that were produced by Chad. 18 no to this question. 19 19 And then -- and then Exhibit No. 8 was the You do not have scanning electron 20 20 flash drive that you produced that had microscopy microscopy images of Sample No. 2, correct? 21 21 and scanning -- additional microscopy and scanning A. Sir, we have scanning electron microscopy 22 electron microscopy images that were not previously 22 images of Samples 4, 5, and 6, which were shown to 23 produced. 23 have cracking similar to each other and are in the 24 Which production would you have to look at 24 same batch as that process of Sample No. 2. 25 25 to answer that question? Q. Okay. So the answer is no, you do not

	Page 138		Page 140
1	have scanning electron microscopy of Sample No. 2?	1	spectra in Exhibit 15.
2	MR. HUTCHINSON: Objection. Asked and	2	And there is also another FTIR document in
3	answered.	3	the production given to you prior to Dr. MacLean's
4	THE WITNESS: We have SEM images of	4	testimony, but I can't open it on the flash drive.
5	Samples 4, 5, and 6, sir.	5	Q. Yeah, and I'll I'm going to represent
6	BY MR. THORNBURGH:	6	to you I have looked at those documents, all of
7	Q. Okay. We looked at some FTIR spectra	7	them, very carefully, and the FTIR documentation
8	earlier. We looked and saw that you had FTIR of	8	that was provided prior to Dr. MacLean's deposition
9	Sample No. 4 and Sample No. 6.	9	was that of the chemical-treated samples, not of the
10	Do you recall that?	10	UV-treated samples, okay.
11	A. I'm looking in the exhibits that I have.	11	So my question is my question is very
12	Q. It was Exhibit 16 or 15, Exhibit 15.	12	simple, I think.
13	A. Exhibit 15, is that what you are referring	13	Do you know sitting here today whether or
14	to?	14	not FTIR microscopy was performed on Sample No. 2?
15	Q. Yes.	15	MR. HUTCHINSON: Object to form.
16	A. Yes, I have that in front of me.	16	THE WITNESS: We performed FTIR on samples
17	Q. Okay. Did you do FTIR of Sample No. 2?	17	that were treated in the same batch as Number 2, and
18	A. We did FTIR on from what you are	18	that's been provided to you.
19	saying, the exhibits that you have pointed out, on	19	MR. THORNBURGH: Chad, can you please have
20	Sample No. 4. And then there is not a label on the	20	her answer the question? It's a yes or no. It's
21	first two pages, but you had indicated, I think,	21	not a trick question.
22	earlier that that was Sample No. 6.	22	Q. Did you or did you not perform FTIR on
23	Q. Okay. So you do not have strike that.	23	Sample No. 2?
24	Am I correct that you do not have FTIR	24	MR. HUTCHINSON: Counsel
25	spectra for Sample No. 2?	25	MR. THORNBURGH: That's all I want her to
	Page 139		Page 141
1	A. Similar to the SEM images, we acquired	1	answer, Chad, yes or no.
2	FTIR on a representative sample from the batch that	2	MR. HUTCHINSON: I understand. And,
3	was processed in the same conditions, in the same	3	Counsel, she has she had answered your question.
4	QUV chamber at the same time.	4	MR. THORNBURGH: She's not.
5	Q. So you do not have SEM images strike	5	MR. HUTCHINSON: If you have a document
6	that. Withdrawn.	6	do you have a document maybe that you could show her
7	You do not have strike that.	7	to help her maybe understand where you are going?
8	You did not perform FTIR analysis	8	MR. THORNBURGH: Chad
9	specifically on Sample No. 2, correct?	9	MR. HUTCHINSON: She's answered your
10	MR. HUTCHINSON: Objection. Asked and	10	question.
11	answered.	11	MR. THORNBURGH: It's a very simple
12	THE WITNESS: We performed FTIR analysis	12	question.
13	on, in Exhibit 15, Samples 6 and Samples 4, which	13	Q. Yes or no, did you perform FTIR on Sample
14	were processed in the same QUV chamber as Sample No.	14	No. 2?
15	2, sent to Histion.	15	A. I am not able to open the other FTIR
16	BY MR. THORNBURGH:	16	documents on the flash drive, sir. If you have
17	Q. Are there do you have any other FTIR	17	spectra you would like me to look at, I can.
18	analysis, other than the analysis performed on	18	I have already answered that we performed
10	Sample No. 4 and 6 contained in Exhibit No. 15?	19	FTIR on the samples that were treated in the same
19		20	QUV chamber that are given in the spectra provided
	A. I believe that we also have additional		
19	A. I believe that we also have additional FTIR. And, again, you know, I can't open these	21	to you.
19 20		21 22	Q. If you would have performed FTIR analysis
19 20 21	FTIR. And, again, you know, I can't open these		Q. If you would have performed FTIR analysis on Sample No. 2, would they have been produced as
19 20 21 22	FTIR. And, again, you know, I can't open these files on the production.	22	Q. If you would have performed FTIR analysis

#### Page 142 Page 144 1 Q. Okay. And if there -- if there is no FTIR 1 2 analysis within that production of Sample No. 2, is 2 A. It's in the box where, if you were here, 3 it safe for me to assume that there was no FTIR you could see there was another QUV sample, but I 4 analysis performed on Sample No. 2? 4 don't believe that it was under -- that it underwent 5 5 A. All of the FTIR that we performed was the protocol outlined in the project plan. б 6 Q. Okay. So there is another QUV sample. provided in the production to you. 7 7 Q. Okay. So we have talked about how the Which sample number is that? 8 pristine TVT exemplar was cut and there were pieces 8 A. It says Number 6 on it. 9 that were -- that had become samples for certain 9 Q. Okay. So Number 6 did not undergo the 10 10 testing. project plan outlined in the Histion report, which I 11 And you identified that there were at 11 think was Exhibit No. 17; is that correct? 12 12 least six pieces that were cut from the pristine TVT A. The sample that I have returned to me from 13 13 exemplar, right, that were used, according to you, the samples I received yesterday as part of the for UV treatment? 14 study from the lab, Sample No. 2 looks to have been 14 processed by the lab, and a sample labeled Number 6, 15 A. Yes, I believe that's correct. 15 16 Q. Okay. Were there any other pieces that 16 it appears to be intact. 17 17 were cut from the pristine TVT exemplar that you Q. Okay. Intact and not processed by 18 18 Histion? 19 A. There were additional pieces cut for the 19 A. It's not in a resin or paraffin block. 20 control pristine, out-of-the-box Prolene sample that 20 Q. What, if anything, was performed -- what, 21 was used as part of the microscopy report and sent 21 if any, testing was performed on Exhibit No. 6 by 22 Histion? 22 23 And there were also pieces cut that were 23 A. Exhibit No. 6? 24 24 exposed to plaintiffs' expert, Dr. Guelcher's Q. I'm sorry. Sample No. 6. 25 chemical oxidation protocol. 25 A. According to the project plan and the Page 143 Page 145 1 Q. Okay. So we're going to talk about that samples that I have received that you would be able 2 process in a moment. 2 to see if you were here, they are not in a resin or 3 So what I understand, though, is of the 3 a paraffin block. It's just in -- on a slide 4 six UV-treated samples that you had, you only 4 wrapped in some aluminum foil. 5 submitted one of those samples for histology, right? 5 Q. Okay. And was that a deviation from the 6 6 A. We actually I have the box in front of me protocol that was set out or the plan that was 7 7 that was returned, and we sent two QUV process developed? 8 8 samples to Histion, one of which went through the A. No, not at all. The plan was to process a 9 processing, embedding, and staining protocol 9 QUV process sample, and that's what we did. 10 outlined in Dr. MacLean's microscopy report. 10 Q. Why did you send Sample No. 6 to Histion 11 Q. So one was -- I think what you are saying 11 if they weren't going to perform any analysis on --12 is -- and I think that when we looked at the -- the 12 on that sample? 13 Histion project plan, it indicated that they 13 A. Probably as a backup for them at their 14 received one QUV specimen that was divided in half, 14 convenience. 15 half of it was treated with resin and half of it --15 Q. Do you know why? 16 the -- half of the other -- the other half was 16 MR. HUTCHINSON: Objection. Asked and 17 treated with paraffin, right? 17 THE WITNESS: Probably as a backup for 18 A. That's what the project plan says, yes. 18 19 Q. Okay. And so is that your understanding, 19 their convenience. 20 that there wasn't additional QUV other than what the 20 BY MR. THORNBURGH: 21 project plan shows; is that correct? 21 Q. But in any event, only one of those 22 A. Well, there were two samples that were 22 samples was actually processed by Histion for the 23 returned to me, one of which looks to have been 23 microphotography that was done later on, correct? 24 processed in paraffin and resin. 24 A. Well, we processed a QUV oxidized sample, 25 Q. What about the other half or the other 25 a pristine Prolene mesh sample, and a chemically

	Page 146		Page 148
1	oxidized sample according to plaintiffs' expert,	1	micrographs that were taken of processed sections,
2	Dr. Scott Guelcher's IUGA proceedings paper	2	embedded and staining protocol slides from Histion.
3	protocol.	3	The files that are on Exhibit No. 8
4	Q. So let me ask you	4	include SEM images of chemically oxidized processed
5	A. We also processed a control tissue sample	5	mesh and optical microscopy images as well as SEM
6	that was rabbit skin as part of the study.	6	images of QUV processed mesh.
7	Q. Okay. So let me ask you this question.	7	Q. Okay. I think I understand.
8	Of the six or alleged six QUV-treated	8	A. Great.
9	samples, why did you only ask Histion to process one	9	Q. Okay. So regarding the chemical or
10	sample of the six?	10	chemical yeah, chemical treated samples, let's
11	A. From the SEM and the FTIR, the samples	11	just turn our attention just briefly I think
12	were shown to have similar morphology and similar	12	hopefully briefly to that experiment.
13	FTIR spectra. And in processing one sample, Histion	13	So how many pieces were cut from the TVT
14	can create hundreds and hundreds of sections from	14	exemplar for purpose of or purposes of the
15	microtoming.	15	chemical treatment oxidation experiment that you
16	Q. But you could have sent you could have	16	performed?
17	asked Histion to perform histopathology on all six	17	A. A few.
18	specimens, but only or samples, but only one	18	Q. And does that mean two?
19	sample was actually processed, right?	19	A. Well, I said, "A few."
20	MR. HUTCHINSON: Object to form. Compound	20	Q. Well, how many precisely?
21	question.	21	A. On the on the same order as the number
22	THE WITNESS: We found that, from the FTIR	22	that were processed for the QUV process step.
23	and the SEM, the samples that were imaged and	23	Q. So is that an additional six?
24	measured were similar.	24	A. It's on the order of that number.
25	And so one sample from that batch that was	25	Q. What internal Exponent document would I
	Page 147		Page 149
1	processed in the same QUV chamber was sent to		
	- ·	1	look at to confirm how many samples from the
2	Histion, where they had the capability to create	2	exemplar were used for the chemical oxidation
2	- ·		exemplar were used for the chemical oxidation experiment?
	Histion, where they had the capability to create hundreds and hundreds of sections from one embedded sample.	2 3 4	exemplar were used for the chemical oxidation experiment?  A. We processed the chemically oxidizing
3	Histion, where they had the capability to create hundreds and hundreds of sections from one embedded sample.  MR. HUTCHINSON: Hey, Dan, could you back	2 3 4 5	exemplar were used for the chemical oxidation experiment?  A. We processed the chemically oxidizing protocol samples and imaged them with SEM.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Histion, where they had the capability to create hundreds and hundreds of sections from one embedded sample.  MR. HUTCHINSON: Hey, Dan, could you back up from the microphone for a little bit, please? We are getting a lot of static.  BY MR. THORNBURGH:  Q. Now, we I think earlier today we marked as Exhibit No. 1 the microscopy image index.  Do you recall that?  A. Yes, I have that in front of me.  Q. And this index was was, I think, identical well, I compared this index with the microphotographs that were produced by Dr. MacLean, and it would appear that this would be an index of those photomicrographs or microphotographs; is that is that a correct understanding?  A. That's correct, sir.  Q. And the additional microphotographs that were produced by you today on Exhibit No. 8 would not be identified on this grid, correct?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	exemplar were used for the chemical oxidation experiment?  A. We processed the chemically oxidizing protocol samples and imaged them with SEM.  Q. Were all were all samples imaged using SEM?  A. It's likely that, similar to the QUV, we imaged a representative sample from the batch that was processed with the chemical oxidation protocol according to Scott Guelcher.  Q. Okay. So when you cut the pieces from the exemplar, did you identify which pieces would be treated chemically to try to oxidize them with some sort of identification number?  A. A few set of samples were cut and all processed from the same oxidation solution.  (Whereupon, a brief discussion off the record.)  BY MR. THORNBURGH:  Q. You had testified earlier that for the UV-treated samples you had labeled those samples as

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#### Page 150 Page 152 1 Q. Okay. So what samples were labeled --1 order of the same -- a similar number of samples 2 2 using the chemically oxidized protocol compared to 3 How did you -- how did you label each 3 the QUV oxidized protocol. 4 4 chemically treated sample under your experiment --Q. Okay. That's fair. So for each 5 5 or -- for the chemical treatment? experiment, the samples were labeled the same? б So in other words -- let me just ask a 6 A. For each experiment, the QUV samples were 7 7 better question. labeled 1 through 6, and a similar set of samples on 8 So for the UV treatment, we -- you are 8 the order of the number of samples processed for QUV 9 testifying that Samples 1 through 6 underwent UV --9 were processed using Dr. Scott Guelcher's protocol. 10 10 the UV process. One of those samples that was What sample numbers were submitted for 11 11 representative of the batch, oxidized from the same 12 chemical analysis or chemical treatment? 12 chemical oxidizing solution, was sent to Histion, 13 13 A. We processed a similar number of samples where it was given the label number four. 14 for -- under the chemical oxidizing protocol. 14 Q. Okay. So --15 15 Q. Okay. So did you label the seventh sample A. In the Histion study, Labels No. 1 pertain to an exemplar, out-of-the-box, pristine Prolene 16 as a sample that was treated chemically? 16 17 17 A. The samples that were sent to the mesh, and Number 2 pertains to the QUV oxidized 18 laboratory were labeled with the number four. 18 19 Q. Well, so -- okay. So was Sample No. 4 19 Number 4 pertains to a mesh sample that 20 treated with chemical oxidation or chemicals to try 20 was exposed to the chemically oxidized protocol, as 21 outlined by Dr. Scott Guelcher. And Sample No. 5 is 21 to intentionally oxidize it? 22 22 the control tissue. A. The Sample No. 4 in the Histion documents 23 23 was treated with the chemical oxidation protocol, as This is all in the QC record provided by 24 24 outlined by Dr. Scott Guelcher. the lab and outlined very clearly. Specifically, I 25 am looking at Exhibit No. 5 and also the staining 25 Q. Okay. But I thought you testified earlier Page 153 Page 151 1 that Samples 1 through 6 were treated with QUV. 1 log document, which I'm not sure that -- oh, yes, 2 A. There were Samples No. 1 through 6 that 2 Exhibit No. 17. 3 were treated with QUV. I'm talking about the sample 3 Q. Okay. So Exhibit Number -- oh, hold on 4 that was sent to Histion and labeled as Sample No. 4 one second. 5 5 Okay. So let's look at the Histion 6 6 Q. Well, how do I know that you didn't staining log. 7 7 mistakenly send a different sample to Histion to --Do you have that in front of you? 8 to be analyzed as a chemical-treated specimen? 8 A. Oh, also, before I finish my answer -- for 9 MR. HUTCHINSON: Object to form. 9 the previous question, the lab does sort of blindly 10 THE WITNESS: There is a record of the 10 receive the samples so that no bias is put on them 11 samples sent and then also received and returned to 11 when they are processed, embedded, and stained. 12 me yesterday. And if you were here, you could see 12 They label them with the numbers and then 13 them in person. 13 keep a record of the labels, from our labels that we 14 BY MR. THORNBURGH: 14 sent to their labels on the slides, to ensure 15 Q. Okay. But I'm just trying to understand, 15 traceability. 16 because you testified that Samples 1 through 6 were 16 Q. Okay. So your testimony is that when 17 treated with QUV and Samples 7 and above were 17 Histion receives -- the Histion lab, which is the 18 treated with chemicals to try to intentionally 18 third-party laboratory who did the histopathology, 19 19 oxidize them. 20 So why does the Histion report identify 20 A. They processed the samples we sent, 21 21 Exhibit No. 4 as -- Sample No. 4 as a sample that embedded them, and then stained them according to 22 was treated chemically? 22 Dr. Iakovlev's protocol. 23 A. I believe you said that it was Samples 23 Q. Okay. But then you said that the lab 24 No. 7 and above that were chemically oxidized. 24 blindly receives the samples. 25 25 Which lab are you talking about? I said that we chemically oxidized on the

	Page 154		Page 156
1	A. Histion, sir.	1	A. It appears to be, yes.
2	Q. Okay. So Histion blindly receives the	2	Q. Okay. And do you know what sample was
3	samples.	3	from the chemically treated samples was analyzed
4	How do you	4	using scanning electron microscopy?
5	A. That's oh, go ahead, sorry.	5	A. We analyzed a few different samples from
6	Q. No, that I just want to make sure I	6	those that were exposed with the same solution made
7	understand your testimony.	7	from Dr. Scott Guelcher's protocol.
8	Your testimony was that Histion blindly	8	Q. Okay. My question is, do you know which
9	receives the samples, right?	9	samples were analyzed?
10	A. No, that's in correct. Histion receives	10	A. Sir, these images don't have a file name
11	the sample that we sent and then they assign them	11	associated with them in front of me.
12	numbers so that they do not assign any bias while	12	Q. Well, the file names that they came in
13	processing the samples.	13	came with say "Flip" it says, "8/25/15 Oxidized
14	But in their log, the samples are recorded	14	Mesh Flip-01" through "Flip-05," and then the
15	to the label that was on them when we sent them to	15	same and then images Oxidized Mesh 01 through 03.
16	Histion.	16	Do you know what that naming what those
17	Q. Okay. So for the chemical-oxidized	17	names mean? Because that's how they were produced
18	experiment, you sent to Histion one sample, correct?	18	to us.
19	A. Well, we actually sent two, but they	19	A. These are images of several different
20	processed one.	20	areas of the same sample, oxidized mesh, and then
21	Q. Do you know why they only processed one	21	the numbered samples after that are different areas
22	sample rather than two?	22	of the sample. And then "flip" indicates the
23	A. As part of the project plan, they	23	opposite side of the sample was imaged.
24	processed one of the chemically oxidized samples.	24	Q. Okay. So just just one sample was
25	I need to take a break.	25	evaluated with scanning electron microscopy of the
	Page 155		Page 157
1	MR. THORNBURGH: Okay. That's fine.	1	chemical-treated samples?
2	THE VIDEOGRAPHER: Your microphone.	2	A. Well, from the exhibit you have handed me,
3	Going off the record at 4:18.	3	and correlating that with the online production
4	(Whereupon, a brief recess was taken.)	4	folder, and I am in 2015-08-25_COCL2 Oxidized Mesh,
5	MR. HUTCHINSON: Yes, Dan, we're all here.	5	that appears to be a collection of images from one
6	THE VIDEOGRAPHER: Back on the record at		that appears to be a concerton of images from one
_		6	sample.
7	4:22.	6 7	
8			sample.
	4:22.	7	sample. Q. Okay. Were there any other scanning
8	4:22. MR. THORNBURGH: Are we on the record?	7 8	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other
8 9	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.	7 8 9	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?
8 9 10	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't	7 8 9 10	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from
8 9 10 11	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.	7 8 9 10 11	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in
8 9 10 11 12	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court	7 8 9 10 11 12	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from
8 9 10 11 12 13	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A	7 8 9 10 11 12 13	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at
8 9 10 11 12 13 14	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.	7 8 9 10 11 12 13 14	sample. Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample? A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26.
8 9 10 11 12 13 14 15	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.	7 8 9 10 11 12 13 14 15	sample. Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample? A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26. And there is also additional SEM images of
8 9 10 11 12 13 14 15	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go	7 8 9 10 11 12 13 14 15 16	sample. Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample? A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26. And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples.
8 9 10 11 12 13 14 15 16	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go ahead and mark all those as the next exhibit.	7 8 9 10 11 12 13 14 15 16	sample. Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample? A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26. And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples. Q. Within that folder that you just
8 9 10 11 12 13 14 15 16 17	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go ahead and mark all those as the next exhibit.  (Whereupon, a brief discussion off the	7 8 9 10 11 12 13 14 15 16 17	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26.  And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples.  Q. Within that folder that you just identified?
8 9 10 11 12 13 14 15 16 17 18	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go ahead and mark all those as the next exhibit.  (Whereupon, a brief discussion off the record.)	7 8 9 10 11 12 13 14 15 16 17 18	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26.  And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples.  Q. Within that folder that you just identified?  A. Yes, sir.
8 9 10 11 12 13 14 15 16 17 18 19 20	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go ahead and mark all those as the next exhibit.  (Whereupon, a brief discussion off the record.)  (Whereupon, Exhibit 19 was marked for	7 8 9 10 11 12 13 14 15 16 17 18 19 20	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26.  And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples.  Q. Within that folder that you just identified?  A. Yes, sir.  Q. Okay. And are those of a different sample
8 9 10 11 12 13 14 15 16 17 18 19 20 21	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go ahead and mark all those as the next exhibit.  (Whereupon, a brief discussion off the record.)  (Whereupon, Exhibit 19 was marked for identification.)  BY MR. THORNBURGH:	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	sample. Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample? A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26. And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples. Q. Within that folder that you just identified? A. Yes, sir. Q. Okay. And are those of a different sample than those that were looked at in Exhibit No. 19?
8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	4:22.  MR. THORNBURGH: Are we on the record?  MR. HUTCHINSON: Yes.  MR. THORNBURGH: Oh, I'm sorry. I didn't hear that.  Okay. So I I provided the court reporter with some documents that are numbered 11A through I.  THE REPORTER: Yes, sir.  MR. THORNBURGH: Okay. If we can just go ahead and mark all those as the next exhibit.  (Whereupon, a brief discussion off the record.)  (Whereupon, Exhibit 19 was marked for identification.)	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	sample.  Q. Okay. Were there any other scanning electron microscopy images taken from any other chemically treated sample?  A. I believe there are additional images within the microscopy report and SEM folder in Exhibit No. 6, which contains the production from prior to Dr. MacLean's deposition. I'm looking at file folder named 2015-08-26.  And there is also additional SEM images of Cobalt(II) chloride oxidized processed samples.  Q. Within that folder that you just identified?  A. Yes, sir.  Q. Okay. And are those of a different sample than those that were looked at in Exhibit No. 19?  A. They are all from the same batch of

	Page 158		Page 160
1	A. They are all processed similarly.	1	titled 8-26 sorry, 2015-8-26 is because the FTIR
2	Q. Is it is it a different sample that was	2	spectra was ran on 8/26/2015; is that correct?
3	looked at under scanning electron microscopy than	3	A. To my knowledge, yes.
4	the sample that we just looked at in Exhibit No. 19?	4	Q. Actually, it looks like it was ran on
5	A. It might be.	5	8/25/2015.
6	Q. Do you know?	6	If you turn if you turn to page 2 of
7	A. The samples were all processed the same,	7	Exhibit 20, it says, "FTIR data 8/25/15"?
8	sir.	8	A. It's quite possible that the PowerPoint
9	Q. Okay. So for Exhibit No	9	file you are referring to in the production that
10	A. And this was taken on a different day.	10	includes the label four and a half weeks was
11	Q. For Number for Exhibit No. 19	11	prepared from spectra that were acquired a day
12	A. Uh-huh.	12	before.
13	Q what sample is that? What is the	13	Q. Okay. So if you turn to page or the
14	sample identification number for for the SEM	14	third page in Exhibit No. 20.
15	images in Exhibit No. 19?	15	A. Okay.
16	A. Well, as I stated, they were all all	16	Q. Okay. You will see that there is it
17	the images are of the same sample. It's one sample.	17	says, "Exemplar," at the top, and there is a FTIR
18	Q. Yeah, but what is the sample number?	18	spectra.
19	A. Well, on these images there doesn't appear	19	Do you see that?
20	to be a sample number.	20	A. Yes.
21	Q. Okay. Because we know that you sent a	21	Q. Okay. And then underneath those the
22	sample to Histion that you called Sample No. 4 from	22	exemplar is another spectra that is labeled
23	the chemical-treated samples, right?	23	"Oxidized."
24	A. Well, that's the designation that is in	24	Do you see that?
25	the Histion paperwork.	25	A. Yes.
23	the Histori paperwork.		
	Page 159		Page 161
1	Q. I thought that was a designation that	1	Q. Okay. And this is what was treated
2	correlated with your samples.	2	chemically in an attempt to oxidize it?
3	A. We sent a representative sample of the	3	A. Yes, according to Dr. Scott Guelcher's
4	chemically oxidized samples to Histion.	4	protocol.
5	Q. Okay. So what sample what Exponent	5	Q. Okay. What sample number was analyzed
6	chemically treated sample are we looking at in	6	from the chemically treated samples using FTIR?
7	Exhibit No. 19, if you know? If you don't know,	7	A. All of the samples that were chemically
8	that's fine.	8	oxidized according to Dr. Guelcher's protocol were
9	A. I mean, we're looking at a representative	9	oxidized with the same solution separated into
10	sample. The SEM images are a representative sample	10	different vials. This is one of those samples
11	of that batch.	11	representative from that batch, sir.
12	MR. THORNBURGH: Okay. Let's if we	12	Q. Okay. So which sample number is it?
13	could mark as Exhibit No. 20 the document that I	13	A. In the spectrum it doesn't have a sample
14	provided to the court reporter as Number 12.	14	number, sir.
15	(Whereupon, a brief discussion off the	15	Q. Okay. Which what internal Exponent
16	record.)	16	document do I look to, to confirm what sample number
17	(Whereupon, Exhibit 20 was marked for	17	I'm looking at from the batch of chemically treated
18	identification.)	18	samples?
19	THE WITNESS: I have Exhibit 20 in front	19	A. Well, it's a representative sample from
20	of me.	20	that batch.
21	BY MR. THORNBURGH:	21	Q. So there's is it fair to say that there
22	Q. Okay. 20 was sent to us, a document	22	is no document that I can look at to determine what
23	titled: "2015-08-26 FTIR-4.5 weeks," okay?	23	sample number we are looking at here?
24	A. Okay.	24	MR. HUTCHINSON: Object to form. Asked
25	Q. And I assume that the reason why it was	25	and answered.
-	man and to to man in it is in it		··

	Page 162		Page 164
1	BY MR. THORNBURGH:	1	Did you do at your instruction at your
2	Q. Right?	2	lab at Exponent in California?
3	A. The spectrum in front of me that you had	3	A. Yes, this was done in our on our FTIR
4	indicated is from a sample from that's	4	instrument in California.
5	processed in the same batch of chemically oxidized	5	Q. And are you familiar with FTIR analysis?
6	samples, sir.	6	A. I am.
7	Q. So I take it to understand I think I	7	Q. And did you help in preparing
8	understand your testimony, no, there isn't an	8	Dr. MacLean's report concerning the FTIR analysis?
9	internal Exponent document that I can look to, to	9	A. I'm not aware of any FTIR analysis that
10	understand which sample I'm looking at here?	10	was included in Dr. MacLean's microscopy report.
11	A. This is a sample that has been chemically	11	Q. Well, in the experiments let me ask
12	oxidized in that protocol according to Dr. Scott	12	this question.
13	Guelcher.	13	How much communication did you have with
14	Q. Is it Sample No. 4 that was sent to	14	Dr. MacLean concerning the chemical oxidation
15	Histion?	15	experiment and the UV oxidation experiment?
16	A. It's a sample from representative	16	A. We discussed those experiments.
17	sample from the same batch	17	Q. Okay. Did you discuss the findings in the
18	Q. Do you know if it	18	FTIR?
19	A that was sent to Histion.	19	A. I don't recall. We might have.
20	Q. Sorry. Do you know if it is Sample No. 4?	20	Q. Okay. What might have you discussed with
21	A. It's a representative sample, sir.	21	Dr. MacLean regarding the FTIR?
22	Q. If you look at on still on the third	22	A. Well, in general, I discussed the
23	page of Exhibit 20, there is a peak it looks like	23	experiments that we performed as part of this study
24	a different peak from that of the exemplar, which	24	that was done to investigate whether intentionally
25	runs from, you know, about 3,000 reciprocal	25	oxidized Prolene mesh stains with H&E.
	Page 163		2 165
	1430 100		Page 165
1		1	
1 2	centimeters to 3,600 reciprocal centimeters.	1 2	Q. Okay. And did you provide strike that.
	centimeters to 3,600 reciprocal centimeters.  Do you see that?		Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the
2	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak.	2 3	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see
2 3	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak.  Q. Okay. What is what is your	2	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters?
2 3 4	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak.  Q. Okay. What is what is your understanding of that peak?	2 3 4	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters?  A. These spectra were provided to
2 3 4 5	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak.  Q. Okay. What is what is your understanding of that peak?  MR. HUTCHINSON: Object to form.	2 3 4 5	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters?  A. These spectra were provided to Dr. MacLean.
2 3 4 5 6	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak.  Q. Okay. What is what is your understanding of that peak?	2 3 4 5 6	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters?  A. These spectra were provided to Dr. MacLean.  Q. Okay. And if you look further down to the
2 3 4 5 6 7	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak. Q. Okay. What is what is your understanding of that peak?  MR. HUTCHINSON: Object to form.  THE WITNESS: I'm not prepared to offer	2 3 4 5 6 7	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters?  A. These spectra were provided to Dr. MacLean.
2 3 4 5 6 7 8	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak. Q. Okay. What is what is your understanding of that peak?  MR. HUTCHINSON: Object to form.  THE WITNESS: I'm not prepared to offer any opinions on the spectra today, sir.	2 3 4 5 6 7 8	Q. Okay. And did you provide strike that.  Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters?  A. These spectra were provided to Dr. MacLean.  Q. Okay. And if you look further down to the right of of the oxidized spectra on still on
2 3 4 5 6 7 8	centimeters to 3,600 reciprocal centimeters.  Do you see that?  A. Yeah, I see a peak. Q. Okay. What is what is your understanding of that peak?  MR. HUTCHINSON: Object to form.  THE WITNESS: I'm not prepared to offer any opinions on the spectra today, sir.  BY MR. THORNBURGH:	2 3 4 5 6 7 8	Q. Okay. And did you provide strike that. Did you talk to Dr. MacLean about the peaks the broad very broad peak that we see from 3,000 to 6 3,600 reciprocal centimeters? A. These spectra were provided to Dr. MacLean. Q. Okay. And if you look further down to the right of of the oxidized spectra on still on the third page?
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	Page 166		Page 168
1	indicative of oxidation.	1	A. Yes.
2	BY MR. THORNBURGH:	2	Q. Okay. And the why did you why
3	Q. 1,650?	3	what was your reason, again, for running this
4	A. You said 1,750.	4	specimen again?
5	Q. Yeah, no, I said 1,650. But you	5	A. We carried out FTIR on this sample because
6	understand that 1,650	6	we wanted to save a background spectrum associated
7	MR. HUTCHINSON: Actually, no, Dan, I'm	7	with it.
8	sorry. The court reporter wrote down 1,750, so	8	This sample was a QUV-processed sample
9	MR. THORNBURGH: Okay. I might have. I	9	that was processed in the same chamber at the same
10	might have.	10	time under the same conditions as the previously
11	MR. HUTCHINSON: But I'm going to object	11	examined QUV-processed samples by FTIR.
12	to the extent that it's outside the witness's area	12	Q. Okay. So so the background information
13	of testimony.	13	gives us what? In layman's terms, why are we
14	MR. THORNBURGH: Right.	14	running background?
15	Q. Okay. So but you understand that	15	A. Essentially there is, in the air and such,
16	carbonyls on oxidized propylene appear anywhere from	16	peaks that can show up in the FTIR, and the
17	about 1,650 up to 1,800 reciprocal centimeters?	17	background is used as sort of a zero so that when
18	MR. HUTCHINSON: Same objection.	18	you are analyzing your sample, you are only
19	THE WITNESS: I understand.	19	collecting peaks pertaining to that sample.
20	BY MR. THORNBURGH:	20	Q. Right. So you are excluding you are
21	Q. Did you talk to Dr. MacLean about the	21	excluding the background information?
22	results or the data that was found on or in these	22	A. That's inaccurate, sir. You take a zero
23	FTIR spectra of the chemically oxidized mesh?	23	spectrum in the form of a background, and that is
24	A. These spectra were provided for	24	recorded on the instrument so that when you analyze
25	Dr. MacLean's review once they were acquired.	25	your sample of interest, you are only collecting
	Page 167		
			Page 169
1	Q. Did you talk to him about the data	1	peaks indicative of that sample.
2	Q. Did you talk to him about the data contained herein, in Exhibit No. 20?	2	peaks indicative of that sample.  Q. Yeah, that's what I think that's what I
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2 3 4 5	<ul> <li>Q. Did you talk to him about the data contained herein, in Exhibit No. 20?</li> <li>A. I mean, I had several discussions with him about the experiments that we were conducting.</li> <li>Q. Did you talk to him about the peak that</li> </ul>	2 3 4 5	peaks indicative of that sample.  Q. Yeah, that's what I think that's what I was trying to say. Maybe I still don't understand it. As I said, I'm a layperson.  But you don't you want to make sure you
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#### Page 170 Page 172 A. Yes, you want to look at the sample itself 1 that there are two different samples or that there 2 and ensure that you are only collecting peaks that 2 is -- they are different, but really, it's quite 3 are indicative of your sample of interest. 3 possible that they are indeed the same sample. 4 Q. Right, because the background could have 4 BY MR. THORNBURGH: 5 5 oxygen or other things like that, so you don't want Q. How -- well, how -- what document do I look to, to verify that the sample that was tested 6 that to show up on the FTIR spectra of the sample. 6 7 So you are -- you are trying to eliminate 7 at Histion is a -- is a -- is the same sample or a 8 the background information from the actual spectra 8 remnant of the sample that was testified with FTIR 9 of the sample being tested? 9 on October 5th, 2015? 10 MR. HUTCHINSON: Object to form. Compound 10 A. The Sample No. 6 that is in the 11 11 October 5th, 2015, spectrum is from the same batch question. 12 Counsel, could you rephrase that? 12 of samples that were processed with QUV, sir. 13 BY MR. THORNBURGH: 13 Q. Okay. When did you receive Sample No. 6 14 Q. Yeah. I -- you know what, I'll withdraw 14 that you have in front of you from Histion? it because I decided it's not important. 15 15 A. We received the sample labeled -- well, 16 Let's look at the second page in Exhibit 16 it's labeled 15-118-6. We received that yesterday. 17 17 No. 21. Q. And has that sample been at Histion ever A. Okay. 18 18 since? 19 Q. Okay. So you ran Specimen No. 6 through 19 A. Ever since when, sir? 2.0 the FTIR process on October -- on October 5th, 2015, 20 Q. Since it was initially sent to them 21 21 according to your -- the -- their chain of custody 22 22 document on October 26th, 2015? A. Yes. I believe one of my colleagues 23 operated the instrument. 23 A. Yes. 24 Q. Okay. Now, you testified a moment ago 24 Q. I'm sorry. August 26th, 2015? 25 that there were two samples that were sent to 25 A. Yes. Page 171 Page 173 1 Histion, Sample No. 2 and Sample No. 6, correct? 1 Q. Okay. So how can the same sample be in 2 From the samples that I have received 2 the same place -- how can the same sample be in two 3 back, there are two samples, one labeled Sample No. 3 different places at the same time? 4 4 A. There are parts of the same sample, sir. 2 and one labeled Sample No. 6. 5 Q. Okay. So if I understand the evidence and 5 Parts of the sample that were remaining in 6 6 testimony correctly, on October 5th, 2015, an FTIR my office, Sample No. 6, were acquired with -- or 7 7 was performed on the sample that you have in front measured with FTIR, and the majority of that sample 8 8 was sent to Histion in the date in August that you of you as Exhibit -- as Sample No. 6, correct? 9 A. It --9 specified. 10 MR. HUTCHINSON: Object to form. 10 Q. Okay. Which internal document at Exponent 11 THE WITNESS: It's labeled Number 6. 11 do I look to, to see -- or to determine that Sample 12 BY MR. THORNBURGH: 12 No. 6 was divided before it was even sent to Histion 13 13 Q. So it would appear that that would be the by you and maintained at your office until 14 same sample that underwent the FTIR analysis on 14 October 5th, when whatever sample or piece of Sample 15 October 5th, 2015, correct? 15 No. 6 you retained was tested by FTIR? 16 A. Yes. So it might help if I explain the 16 A. Each of these samples was all processed 17 the same, with QUV exposure. And in the FTIR that 17 sample to you. This part of the mesh that was sent 18 to Histion was secured during -- a glass slide 18 we acquired, they showed similar spectra, indicating 19 19 during the QUV exposure. that the samples had been exposed similarly. 20 20 And so in analyzing Sample No. 6, the So as I have stated previously, a sample 21 21 portion of the mesh that was analyzed was from the that is representative from the batch that was 22 same sample. Just a remnant was left behind in my 22 processed with QUV was sent to the lab and 23 office, but it's part of the same sample that was 23 processed, embedded, and stained according to 24 24 Dr. Iakovlev's procedure and protocol. sent to Histion. 25 25 Q. What -- what internal document -- so you So I think you are trying to establish

#### Page 174 Page 176 1 are testifying that Sample No. 6 was processed 1 went through the six specimens that were treated as 2 through the paraffin protocol or the resin protocol; 2 a batch with UV radiation as Samples 1, 2, 3, 4, 5, 3 is that correct? 3 and 6, and when I asked you what samples from that 4 A. Sir, the Sample No. 6 in the slides that I 4 batch was sent to Histion, you testified that there 5 5 received was one of the ones that was not processed. was Sample No. 2. 6 I believe the sample that we had referred to as 6 And I said, "Well, how do I know it was 7 Sample No. 2, QUV oxidized, was processed in both 7 Sample No. 2? How can you verify that for me?" 8 8 You said, "Let's look at the Histion chain paraffin and resin. 9 Q. Okay. But Sample No. 6 was provided to 9 of custody. They labeled it Number 2 because we 10 Histion, according to the chain of custody documents 10 sent them Sample No. 2 from that batch." 11 11 Are you withdrawing that testimony now? 12 A. What document are you referring to? 12 MR. HUTCHINSON: Object to form. 13 Q. Yeah, let's do that. So --13 Mischaracterizes the testimony. 14 14 THE WITNESS: Sir, if you were here, you There is a lot of background noise. 15 MR. HUTCHINSON: And, Dan, could you back 15 would see that there was a sample labeled Number 2 16 away from the phone just a minute, please? We're 16 that was sent back to me and originally sent to the 17 17 getting a lot of background noise. Thank you. lab, and there is also a sample labeled "QUV mesh 18 That's better. 18 No. 15-118-6." BY MR. THORNBURGH: 19 19 The -- one of these samples was processed, 20 20 Q. So if you look at Exhibit No. 5? and from looking at the samples, the one where the 21 A. Okay. 21 sample is no longer on the glass slide, it's likely 22 Q. Okay. So you testified -- you testified 22 in paraffin and resin, and that sample, along with 23 earlier that you recently received from Histion 23 the other one that was -- unused mesh sample, as remnants of Sample No. 6 that were not processed by 24 24 indicated in the chain of custody record, received 25 Histion; is that correct? 25 to me -- or that I received yesterday, these samples Page 175 Page 177 1 A. No, sir. We received an unused mesh 1 were sent back. 2 sample with the label 15-118-6 as part of the 2 BY MR. THORNBURGH: 3 samples received yesterday from Histion. We 3 Q. Yeah, I understand that. 4 processed QUV process sample labeled Number 2. 4 And you received Sample No. 2 back and 5 5 Sample -- or, I'm sorry, Sample No. 2 was processed 6 6 A. And that's also present on Exhibit No. 5, into a -- into a pathology slide, correct? 7 7 the second page, or page 1 of 1, since the first A. Sample No. 15-118-2 was processed, half in 8 8 page is a chain of custody cover page, where it paraffin, half in resin, as indicated in the project 9 says, you know, 15-118-2 are part of the H&E stained 9 10 10 Q. Okay. So based on what you have in front 11 Q. Okay. But I'm just trying to figure out, 11 of you and from what you understand as the person 12 because you testified earlier that you received a 12 who was involved in these experiments, is it your 13 specimen from Histion that was identified by an -- a 13 understanding that a -- that Sample No. 6 was also 14 Histion accession number of 15-118-6, correct? 14 sent to Histion, which wasn't processed, but was 15 A. Yes, that's correct. 15 returned back to you yesterday? 16 Q. Okay. And you also testified earlier that 16 A. In the samples that I received, I have a 17 you know that Sample No. 2 from the UV-treated 17 sample labeled 15-118-6, which also is indicated on 18 experiment was sent to Histion because Histion 18 the chain of custody form received with the samples 19 identified the UV-treated sample as 15-118-2. 19 yesterday as an unused mesh sample. 20 20 Do you recall that? Q. Okay. Is that -- is that a -- was that 21 21 a -- strike that. A. Well, the sample labeled Number 2 has "2 22 QUV oxidized," a Number 2 label on the glass slide 22 Is that the same Sample No. 6 that --23 that was sent to Histion, and Histion in its records 23 strike that. 24 annotated that as Sample No. 2. 24 Is that Exponent number -- withdrawn. 25 Q. Yeah, but so you testified earlier when we 25 Let me -- let me try this again.

	Page 178		Page 180
1	Did Exponent also send to Histion Sample	1	Histion had possession and custody of Sample No. 6,
2	No. 6, and is that the sample that you received	2	yet on October 5th, Exponent performed FTIR analysis
3	returned from Histion yesterday?	3	on the same Sample No. 6?
4	MR. HUTCHINSON: Object to form. Compound	4	MR. HUTCHINSON: Object to form.
5	question.	5	Argumentative.
6	THE WITNESS: Yesterday I received a	6	THE WITNESS: Sir, it's likely that since
7	sample labeled QUV 15-118-6 that appeared to not be	7	the majority of the sample was sent, what you are
8	processed and is consistent with the chain of	8	referring to as Sample 15-118-6 was sent to Histion.
9	custody cover page and form document.	9	The way these samples were processed in
10	And I also received a QUV oxidized sample	10	the QUV chamber, and if you were here, you could see
11	labeled H15-118-2 which was indicated to be	11	that, is that a mesh sample is taped to a glass
12	processed in the protocol followed by Histion,	12	slide.
13	including processing, embedding, and staining with	13	In order to not disturb the sample, the
14	H&E and followed to be consistent with	14	sample was cut away from that tape, and so it's
15	Dr. Iakovlev's protocol.	15	likely that you are still looking at Sample No. 6 in
16	BY MR. THORNBURGH:	16	Exhibit No. 21.
17	Q. I'm going to try to make this simple,	17	And the majority of that same Sample No. 6
18	Doctor.	18	was sent to the lab for analysis, except they did
19	Did you send Exponent a QUV sample	19	not process that sample. They processed Sample No.
20	labeled by Exponent as Sample No. 2?	20	2.
21	MR. HUTCHINSON: Object to form.	21	BY MR. THORNBURGH:
22	Counsel, can you rephrase your question?	22	Q. Okay. So let me try to understand your
23	BY MR. THORNBURGH:	23	testimony. Well, let me let me ask you this
24	Q. Dr. Benight Dr. Benight, did you or	24	question.
25	someone at Exponent send to Histion a QUV-treated	25	What internal document at Exponent do I
			··
	Page 179		Page 181
1	Page 179 sample that was identified internally by Exponent as	1	Page 181 look to, to verify what you are telling me actually
1 2		1 2	
	sample that was identified internally by Exponent as		look to, to verify what you are telling me actually
2	sample that was identified internally by Exponent as Sample No. 2?	2	look to, to verify what you are telling me actually occurred?
2	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.	2 3	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel,
2 3 4	sample that was identified internally by Exponent as Sample No. 2? A. Yes. Q. Okay. Did you or Exponent also send to	2 3 4	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were
2 3 4 5	sample that was identified internally by Exponent as Sample No. 2?  A. Yes. Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified	2 3 4 5	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking
2 3 4 5 6	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?	2 3 4 5 6	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.
2 3 4 5 6 7	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.	2 3 4 5 6 7	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:
2 3 4 5 6 7 8	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that	2 3 4 5 6 7 8	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document
2 3 4 5 6 7 8 9	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the	2 3 4 5 6 7 8	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I
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2 3 4 5 6 7 8 9 10 11	sample that was identified internally by Exponent as Sample No. 2?  A. Yes. Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6. Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was	2 3 4 5 6 7 8 9 10 11	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV
2 3 4 5 6 7 8 9 10 11 12 13	sample that was identified internally by Exponent as Sample No. 2?  A. Yes. Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6. Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label	2 3 4 5 6 7 8 9 10 11 12	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process
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2 3 4 5 6 7 8 9 10 11 12 13 14	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6.  Q. Does that mean that Exponent provided	2 3 4 5 6 7 8 9 10 11 12 13 14 15	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process sample were sent to to Histion for processing, embedding, and staining.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6.  Q. Does that mean that Exponent provided Sample No. 6 to Histion?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process sample were sent to to Histion for processing, embedding, and staining.  That's in Dr. MacLean's microscopy report.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	sample that was identified internally by Exponent as Sample No. 2?  A. Yes. Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6? A. The label on the sample is 15-118-6. Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples? A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6. Q. Does that mean that Exponent provided Sample No. 6 to Histion? A. Exponent provided two samples, as I have	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process sample were sent to to Histion for processing, embedding, and staining.  That's in Dr. MacLean's microscopy report. It's in the QC records from the laboratory. It's in
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	sample that was identified internally by Exponent as Sample No. 2?  A. Yes. Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6. Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6. Q. Does that mean that Exponent provided Sample No. 6 to Histion?  A. Exponent provided two samples, as I have stated. One is labeled Q. Numbered A 2, and one is labeled Number 6.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document  Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process sample were sent to to Histion for processing, embedding, and staining.  That's in Dr. MacLean's microscopy report. It's in the QC records from the laboratory. It's in the Histion project plan. All of these documents were produced to you and provided and give that information.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6.  Q. Does that mean that Exponent provided Sample No. 6 to Histion?  A. Exponent provided two samples, as I have stated. One is labeled  Q. Numbered  A 2, and one is labeled Number 6.  Q. Okay. So now	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process sample were sent to to Histion for processing, embedding, and staining.  That's in Dr. MacLean's microscopy report. It's in the QC records from the laboratory. It's in the Histion project plan. All of these documents were produced to you and provided and give that information.  Q. But how do I verify from the internal
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6.  Q. Does that mean that Exponent provided Sample No. 6 to Histion?  A. Exponent provided two samples, as I have stated. One is labeled  Q. Numbered  A 2, and one is labeled Number 6.  Q. Okay. So now  A. 15-118-6.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample and a chemically oxidized process sample were sent to to Histion for processing, embedding, and staining.  That's in Dr. MacLean's microscopy report. It's in the QC records from the laboratory. It's in the Histion project plan. All of these documents were produced to you and provided and give that information.  Q. But how do I verify from the internal and this that's the whole point of lab notebooks,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	sample that was identified internally by Exponent as Sample No. 2?  A. Yes.  Q. Okay. Did you or Exponent also send to Histion a QUV sample that would have been identified internally as Exhibit as Sample No. 6?  A. The label on the sample is 15-118-6.  Q. Is that does that mean that that Exponent sent to Histion Sample No. 6 from the QUV-treated samples?  A. Sir, all of the samples were processed in the same batch. The label on the sample that was not processed in the staining protocol has label 15-118-6.  Q. Does that mean that Exponent provided Sample No. 6 to Histion?  A. Exponent provided two samples, as I have stated. One is labeled  Q. Numbered  A 2, and one is labeled Number 6.  Q. Okay. So now  A. 15-118-6.  Q. Okay. So now I'm trying to understand how	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	look to, to verify what you are telling me actually occurred?  MR. HUTCHINSON: Object to form. Counsel, the witness has already told you that if you were here, you could see the document that she's talking about and the and the and the slides.  BY MR. THORNBURGH:  Q. What internal Exponent document Exponent document, internal Exponent document do I look to, to verify that what you are telling me is true?  A. Well, several documents state that a QUV process sample were sent to to Histion for processing, embedding, and staining.  That's in Dr. MacLean's microscopy report. It's in the QC records from the laboratory. It's in the Histion project plan. All of these documents were produced to you and provided and give that information.  Q. But how do I verify from the internal and this that's the whole point of lab notebooks, right, you want to be able to verify the process,

document do I look to, what electronic lab notebook 2 do I go to at Exponent that tells me that Sample 6 2 was sent to Exponent, there but it was tuped to a 4 glass slide and a sample was cut away from that side — from that tape and also sent back to 6 Exponent to be tested using FTIR analysis?  MR. HUTCHINSON: Object to form. Counsel, it's argumentative.  MR. THORNBURGH: It's not.  MR. HUTCHINSON: Object to form. Counsel, it's argumentative.  MR. HUTCHINSON: Object to form. Counsel, it's argumentative.  MR. HUTCHINSON: Object to form. Counsel, it's argumentative.  MR. HUTCHINSON: Pas, it is.  MR. HUTCHINSON: Pass answer the question.  MR. HUTCHINSON: It is in the records and the documents produced. It's in several of the documents produced. It's in the records and the documents produced. It's in several of the documents produced. It's in the records and the documents produced. It's in several of the documents		Page 182		Page 184
do I go to at Exponent, but but it was taped to a glass slide and a sample was cut away from that slide from that tape and also sent back to Exponent to be tested using FTIR analysis?  MR. HUTCHINSON: Object to form. Counsel, if s argumentative.  MR. HUTCHINSON: Object to form. Counsel, if s argumentative.  MR. HUTCHINSON: Object to form. Counsel, if s argumentative.  MR. HUTCHINSON: Object to form. Counsel, if s argumentative.  MR. HUTCHINSON: Vell, but a we you need to mave on the little same question several times. Let's  MR. HUTCHINSON: Sell, we have a state of the sake of and answered.  MR. HUTCHINSON: Think you are getting frustrated. Also, it's been asked and answered.  THE WITNESS: Sir, we have provided a form of an electronic laboratory notebook. It's in the records and the documents produced.  MR. HUTCHINSON: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  MR. HUTCHINSON: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  MR. HUTCHINSON: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  MR. HUTCHINSON: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  MR. HUTCHINSON: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  MR. HUTCHINSON: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  MR. HUTCHINSON: You asked that specific question.  Page 183  Page 183  Page 185  And I have also stated that to you today, and the produced or returned back for mit tape and the analyzed using TTIR.  A Tunuader oaths: a produced or returned back to Exponent to be analyzed using TTIR.  MR. HUTCHINSON: Counsel, is that a question.  MR. HUTCHINSON: Tim going to object to form. Compound the p	1	document do I look to, what electronic lab notebook	1	BY MR. THORNBURGH:
a glass slide and a sample was cut away from that slide – from that tape and also sent back to slide – from that tape and also sent back to Exponent to be tested using FTR analysis?  MR. HUTCHINSON: Object to form. Counsel, it's argumentative.  MR. HUTCHINSON: Object to form. Counsel, it's argumentative.  MR. HUTCHINSON: Pes, it's.  MR. HUTCHINSON: Description of MR. HUTCHINSON: Description of MR. HUTCHINSON: Pes, it's.  MR. HUTCHINSON: Pes, it's	2		2	Q. I really am trying to understand your
glass slide and a sample was cut away from that 5 slide – from that tape and also sent back to 6 Exponent to be tested using FTR analysis? 7 MR. HUTCHINSON: Object to form. Counsel, 8 if sangumentative. 9 MR. HUTCHINSON: Object to form. Counsel, 10 MR. HUTCHINSON: Object to form. Counsel, 11 BY MR. THORNBURGH: 11 MR. HUTCHINSON: Do you understand? 12 Q. Please answer the question. 13 MR. HUTCHINSON: St, it is. 14 frustrated. Also, it's been asked and answered. 15 THE WITNESS: Sir, we have provided a 15 mere of the experiments performed to you in the 17 form of an electronic laboratory notebook. It's in 18 several of the documents produced. It's in 19 several	3		3	
5 Exponent to be tested using FTIR analysis? 6 Exponent to be tested using FTIR analysis? 7 MR. HUTCHINSON: Object to form. Counsel, it's argumentative. 8 MR. THORNBURGH: It's not. 9 MR. THORNBURGH: It's not. 10 MR. HUTCHINSON: Ves, it is. 11 BY MR. THORNBURGH: It's not. 12 Q. Please answer the question. 13 MR. HUTCHINSON: Ves, it is. 14 furstrated. Also, it's been asked and answered. 15 THE WITNESS: Sir, we have provided a record of the experiments performed to you in the the records and the documents produced. It's in the records and the documents produced. 16 record of the documents produced. It's in several of the documents produced. It's in several of the documents produced. 17 sample sent, not only in the QC custody record—or the the custom stream of the documents produced. 18 talso—we have, as traceability of the 21 sample sent, not only in the QC custody record—or the declared in Custody record, excuse me, from 22 the chain of custody record, excuse me, from 23 Histion, but also, if you were here to observe, in the about a sample stant have been sent back from the lab, all of them are documented in Exhibit No. 5. 19 And I have also stated that to you today, sir. I have been very polite in answering your questions. 19 And I have also stated that to you today, sir. I have been very polite in answering your questions. 20 Q. Okay. So let's assume what you are telling me is correct, for the sake of argument. 21 And I have also stated that to you today, sir. I have been very polite in answering your questions. 22 QU verticated samples would have been taped against a glass slide and the analyzed using FTIR? 23 And I have also stated that to you today, sir. I have been very polite in answering your questions. 24 BY MR. HUTCHINSON: Object to form. Compound question. 25 An The slide you are referring to is labeled a caccording to Dr. lakevilev's protocol by Histion. 26 Q. Okay. So let's assume with a you are the produced or returned back to Exponent to be analyzed using FTIR? 27 MR. HUTCHINSON: Object to form. Co	4	•	4	
Exponent to be tested using FTIR analysis?  MR. HUTCHINSON: Object to form. Counsel, if sagumentative.  MR. HUTCHINSON: Plays it is.  MR. HUTCHINSON: Object to form. Counsel, if sagumentative.  MR. HUTCHINSON: Plays it is.  MR. HUTCHINSON: Object to form. Counsel, if sagumentative.  MR. HUTCHINSON: Plays it is.  MR. HUTCHINSON: Object to form. Counsel, if sagumentative.  MR. HUTCHINSON: Vou asked that specific question.  MR. HUTCHINSON: Vou asked that the specific question.  MR. HUTCHINSON: Vou asked that the specific question.  MR. HUTCHINSON: H	5	•	5	
MR. HICHINSON: Object to form. Counsel, if sargumentative.  MR. THORNBURGH: It's not.  MR. HICHINSON: Yes, it is.  MR. HICHINSON: Pes, it is.  MR. HICHINSON: Do you understand?  MR. HICHINSON: Do you understand?  MR. HICHINSON: Object to form. Counsel, if sargumentative.  MR. HICHINSON: Do you understand?  MR. HICHINSON: Object to form. Counsel, is many the witness has answered your question.  MR. HICHINSON: Well, the witness has answered your question.  MR. HICHINSON: Well, the witness has answered your question.  MR. THORNBURGH: Yes.  WR. THORNBURGH: Yes.  WR. THORNBURGH: Yes.  WR. THORNBURGH: Yes.  A. The slide you are referring to is labeled as paginst a glass slide and the you don't know and you doesn't know end thave been appeal against a glass slide and the sample with you received to the you doesn't know and you are specially you will have been to set you doesn't know and you are specially you will have been will have been end you doesn't know and you are specially you will have been well as you have a paragraph and you have been or	6		6	MR. HUTCHINSON: Hey, well, Dan, we have
## we — you need to move on.  ## We — you need to move on.  ## With THORNBURGH: It's not.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: No. on, on tuntil 1 understand how I can verify this. So.  ## With THORNBURGH: You asked that specific question. She gave you a paragraph answer. And it's not my problem that you can't understand it.  ## With THORNBURGH: Hold on, Chad.  ## Use on the actual samples shat have been sent back from the lab, all of them are documented in Exhibit No. 5.  ## By Mr. THORNBURGH:  ## Page 183  ## And I have also stated that to you today,  ## sir. I have been very polite in answering your  ## sir. I have been very polite in answering your  ## Questions.  ## Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## A. I'm under oath, sir.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ulling me is correct, for the sake of argument.  ## Q. Okay. So lefs assume what you are  ## Ullin	7		7	
MR. HUTCHINSON: Yes, it is.  MR. HUTCHINSON: Po, so, not until 1  BYMR. THORNBURGH:  Q. Please answer the question.  MR. HUTCHINSON: I think you are getting  firstrated. Also, it's been asked and answered.  THE WITNESS: Sir, we have provided a record of the experiments performed to you in the records and the documents produced. It's in session of the experiments produced. It's in the records and the documents produced. It's in the records and the documents produced. It's in the sample sent, not only in the QC custody record – or the catual samples that have been sent back from the lab, all of them are documented in Exhibit No. 5.  Page 183  Page 184  Page 185  Page 186  Page 187  And I have also stated that to you today, sir. I have been very polite in answering your questions.  BYMR. THORNBURGH: A. The slide you are referring to is labeled with the slide that was returned to you doesn't have mesh remnants on it, right?  And I have also stated that to you today, sir. I have been very polite in answering your questions.  BYMR. THORNBURGH: A. The slide you are referring to is labeled  Page 185  Q. Okay. So let's assume what you are telling me is correct, for the sake of argument.  A. I'm under oath, sir.  Q. Okay. So let's assume what you are telling me is correct, for the sake of argument.  A. The muder coath, sir.  Q. Okay. So let's assume it's true.  Who would have cut a piece of – so you to stiffed earlier that the samples that you received back from Itistion are taped to a glass slide and the sample smap have been cut away from that tape and the produced or returned back to Exponent to be analyzed using FTIR?  MR. HUTCHINSON: Vou asked that you are referring to is labeled 15-118-6, sent back to me yesterday from the lab.  Q. Okay. So let's assume if's true.  MR. HUTCHINSON: I'm going to object to form. Compound question	8		8	
MR. HUTCHINSON: Yes, it is.	9		9	•
BY MR. THORNBURGH:  12 Q. Please answer the question.  13 MR. HUTCHINSON: I think you are getting frustrated. Also, it's been asked and answered.  14 THE WITNESS: Sir, we have provided a record of the experiments performed to you in the form of an electronic laboratory notebook. It's in the records and the documents produced. It's in the records and the documents produced in Exhibit No. 5.  Page 183  Page 184  And I have also stated that to you today, sir. I have been very polite in answering your questions.  Page 185  And I have also stated that to you today, sir. I have been very polite in answering your questions.  Page 185  And I have also stated that to you today, a guestion.  Page 186  Page 187  And I have also stated that to you today, a guestion.  Page 188  Page 189  Page	10		10	MR. HUTCHINSON: Do you understand?
12   Q. Please answer the question.   12   MR. HUTCHINSON: Well, the witness has a marked and solution of the caperiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the experiments performed to you in the feed of the feed of the experiments performed to you in the feed of the feed of the experiments performed to you in the feed of the fe	11	· ·	11	
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19 several of the documents produced. 20 It also - we have, as traceability of the 21 sample sent, not only in the QC custody record or 22 the chain of custody record, excuse me, from 23 Histion, but also, if you were here to observe, in 24 the actual samples that have been sent back from the 25 lab, all of them are documented in Exhibit No. 5.  Page 183  Page 185  And I have also stated that to you today, 2 sir. I have been very polite in answering your 3 questions. 3 HYMR. THORNBURGH: 4 Sample of from October 5th to test it using FTIR? 5 Q. Okay. So let's assume what you are 4 telling me is correct, for the sake of argument. 7 A. I'm under oath, sir. 8 Q. Okay. So let's assume it's true. 9 Who would have cut a piece of so you 10 testified earlier that the samples that you received 11 back from Histion are taped to a glass slide and the 12 sample of rom that tape and 13 then produced or returned back to Exponent to be 14 analyzed using FTIR? 15 MR. HUTCHINSON: Object to form. Compound 16 question. 17 THE WITNESS: No, that's incorrect, sir. 18 I said that the way the samples were label and the 20 against a glass slide. 20 MR. THORNBURGH: 4 Quiv treated samples would have been taped against a 22 glass slide and that the slide that was returned to 23 glass slide and that the slide that was returned to 24 you doesn't have mesh remnants on it, and 25 A. The slide you are referring to is labeled 26 Page 185  A. The slide you are referring to is labeled 27 Page 185  A. The slide you are referring to is labeled 28 Page 185  A. The slide you are referring to is labeled 29 Okay. So let's assume it is sample was processed according to Dr. lakovlev's protocol by Histion. 29 QUV oxidized." And that sample was processed according to Dr. lakovlev's protocol by Histion. 20 Okay. So let's assume it's true. 31 I mit of the sake of argument. 4 Sample 6 from on Cotober 5th to test it using FTIR? 5 A. Well, we measured several samples with 6 FTIR. And the spectrum in Exhibit No. 21, labeled 8 labeled 15-118-6, sent back to m			1	
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Page 183  And I have also stated that to you today, sir. I have been very polite in answering your questions.  BY MR. THORNBURGH: Q. Okay. So let's assume what you are telling me is correct, for the sake of argument. A. I'm under oath, sir. Q. Okay. So let's assume it's true. Who would have cut a piece of — so you testified earlier that the samples that you received back from Histion are taped to a glass slide and the sample may have been cut away from that tape and sample may have been cut away from that tape and question.  MR. HUTCHINSON: Object to form. Compound question.  THE WITNESS: No, that's incorrect, sir. I said that the way the samples were processed in the QUV chamber is they were taped against a glass slide. And that sample was processed according to Dr. lakovlev's protocol by Histion. Q. Okay. But where did Exponent get its Sample 6 from on October 5th to test it using FTIR? A. Well, we measured several samples with FTIR. And the spectrum in Exhibit No. 21, labeled Sample No. 6, is likely part of the same sample, labeled 15-118-6, sent back to me yesterday from the lab. Q. Okay. So you say it's likely, but I interpret that as meaning that you don't know and you are speculating?  MR. HUTCHINSON: Counsel, is that a question.  THE WITNESS: No, that's incorrect, sir. R. I said that the way the samples were  Processed in the QUV chamber is they were taped against a glass slide.  And the glass slide that was returned to me yesterday does not have mesh remnants on it, and it's also labeled as QUV oxidized No. 2 or  H15-118-2, which is now in paraffin and resin and  Page 182  D. Okay. So you say it's likely, but I interpretat as meaning that you don't know and you are speculating?  MR. HUTCHINSON: Counsel, is that a question.  THE WITNESS: I don't understand the question.  BY MR. THORNBURGH: Q. Well, you said that — MR. THORNBURGH: Court Reporter, can you			1	
1 And I have also stated that to you today, 2 sir. I have been very polite in answering your 3 questions. 4 BY MR. THORNBURGH: 5 Q. Okay. So let's assume what you are 6 telling me is correct, for the sake of argument. 7 A. I'm under oath, sir. 8 Q. Okay. So let's assume it's true. 9 Who would have cut a piece of so you 10 testified earlier that the samples that you received 11 back from Histion are taped to a glass slide and the 12 sample may have been cut away from that tape and 13 then produced or returned back to Exponent to be 14 analyzed using FTIR? 15 MR. HUTCHINSON: Object to form. Compound 16 question. 17 THE WITNESS: No, that's incorrect, sir. 18 I said that the way the samples were 19 processed in the QUV chamber is they were taped 20 against a glass slide. 21 And the glass slide that was returned to 22 me yesterday does not have mesh remnants on it, and 23 it's also labeled as QUV oxidized. No. 2 or 24 H15-118-2, which is now in paraffin and resin and 2 sample man have been overy polite in answering your according to Dr. lakovlev's protocol by Histion. 2 occording to Dr. lakovlev's protocol by Histion. 2 according to Dr. lakovlev's protocol by Histion. 2 according to Dr. lakovlev's protocol by Histion. 2 according to Dr. lakovlev's protocol by Histion. 3 Q. Okay. But where did Exponent get its 4 Sample 6 from on October 5th to test it using FTIR? 4 Sample 6 from on October 5th to test it using FTIR? 5 A. Well, we measured several samples with 6 FTIR. And the spectrum in Exhibit No. 21, labeled 5 Sample 6 from on October 5th to test it using FTIR? 6 A. Well, we measured several samples with 6 FTIR. And the spectrum in Exhibit No. 21, labeled 6 FTIR. And the spectrum in Exhibit No. 21, labeled 6 FTIR. And the spectrum in Exhibit No. 21, labeled 6 FTIR. And the spectrum in Exhibit No. 21, labeled 7 A. Well, we measured several samples with 8 labeled 15-118-6, sent back to me thibit No. 21, labeled 8 Sample No. 6, is likely part of the same sample, 10 C. Okay. So you say it's likely, but I 11 interpre		and, and or allow are declarationed in Education 2.00 co		The shad year me reserving to is meeted
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	18 19 20 21 22 23	processed in the QUV chamber is they were taped against a glass slide.  And the glass slide that was returned to me yesterday does not have mesh remnants on it, and it's also labeled as QUV oxidized No. 2 or	20 21 22 23	THE WITNESS: I don't understand the question. BY MR. THORNBURGH: Q. Well, you said that
	18 19 20 21 22 23 24	processed in the QUV chamber is they were taped against a glass slide.  And the glass slide that was returned to me yesterday does not have mesh remnants on it, and it's also labeled as QUV oxidized No. 2 or H15-118-2, which is now in paraffin and resin and	20 21 22 23 24	THE WITNESS: I don't understand the question.  BY MR. THORNBURGH:  Q. Well, you said that  MR. THORNBURGH: Court Reporter, can you

	Page 186		Page 188
1	"It's likely"?	1	were originally sent to Histion, which is in the
2	(Whereupon, a brief discussion off the	2	chain of custody document and also the project plan.
3	record.)	3	And I believe the project plan said August 20th.
4	(Whereupon, the reporter read the record	4	Q. Okay. Who at Exponent divided Sample No.
5	as follows:	5	6?
6	"Answer: Well, we measured several	6	A. It would have been me or another one of my
7	samples with FTIR. And the spectrum in Exhibit	7	associates.
8	No. 21, labeled Sample No. 6, is likely part of the	8	Q. And do you recall having done that?
9	same sample, labeled 15-118-6, sent back to me	9	A. I don't recall who specifically cut the
10	yesterday from the lab.")	10	sample, sir.
11	MR. HUTCHINSON: And, Dan, if you if	11	Q. You don't personally recall doing that
12	you have a document or something that you want to	12	yourself, correct?
13	show the witness, that would be helpful. Again, we	13	A. I may have. It also could have easily
14	have three flash drives here, so that would be	14	been someone else doing it at my direction.
15	helpful, if you could show her a document.	15	Q. Do you have any internal documentation
16	MR. THORNBURGH: I'm just trying to	16	that would verify for me when Sample 6 was divided
17	understand what she means when she says, "likely."	17	and who divided it?
18	Q. Does that mean that it is the same sample	18	A. Sir, this sample that we're discussing was
19	or that you think it might be the same sample?	19	sent to Histion, according to the documents, on
20	MR. HUTCHINSON: Object to form.	20	August 20th.
21	THE WITNESS: Sir, as I have already	21	Q. That's not an answer to my question, with
22	mentioned, Sample 15-118-6 and a sample labeled	22	all due respect.
23	H15-118-2 were returned to me yesterday from the	23	Please point me to an internal document
24	lab.	24	that would allow me to verify when Sample No. 6
25	Both of these samples were processed in	25	would have been divided and by whom Sample No. 6 was
	Page 187		Page 189
1	the same QUV chamber under the same conditions at	1	divided?
1 2	the same QUV chamber under the same conditions at the same time for the same amount of time, and they	1 2	divided?  A. Sample No. 6 or the QUV oxidized
	the same QUV chamber under the same conditions at the same time for the same amount of time, and they were both returned to me yesterday.	l .	divided?
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	Page 190		Page 192
1	talking about redirect?	1	BY MR. THORNBURGH:
2	MR. THORNBURGH: Ask no, to ask her to	2	Q. Dr. Benight, are you also the person who
3	answer my question.	3	took the photomicrographs that were produced in this
4	MR. HUTCHINSON: Counsel, I'm not going to	4	case?
5	argue with you, so let that be clear. She just told	5	A. Which photomicrographs are you referring
6	you it says that in the project plan and it was on	6	to, sir?
7	August the 20th, so I'm going to object	7	Q. Well, so let me ask you get some
8	MR. THORNBURGH: It says	8	more a broader question.
9	MR. HUTCHINSON: and instruct the	9	Did you take any photomicrographs?
10	witness not to answer any more questions about that	10	A. Yes.
11	because	11	Q. Okay. And you took did other did
12	MR. THORNBURGH: You are you are	12	other employees at Exponent take photomicrographs?
13	instructing her not to answer any more that's	13	A. Yes.
14	fine. If you instruct her not to answer any more	14	Q. Okay. What specimens did you take
15	questions, that's okay. We're taking this entire	15	photomicrographs of?
16	deposition up with the Court.	16	A. I acquired photomicrographs of the samples
17	MR. HUTCHINSON: All right. Well, Dan, my	17	that were processed by Histion.
18	point to you is, you have asked this question. I'm	18	Q. Which samples; do you know?
19	trying to work this out with you.	19	A. The all of the photomicrographs that
20	MR. THORNBURGH: But she hasn't answered.	20	are in the production in Exhibit 6 that are
21	MR. HUTCHINSON: Why don't we take a quick	21	photomicrographs of processed sections that have
22	break, and that will give you time to calm down. I	22	gone through the staining protocol, those are the
23	know you are frustrated, okay?	23	images that I acquired.
24	MR. THORNBURGH: I just want some answers	24	Q. Okay. And did you have any input into
25	to simple questions. That's all I'm looking for.	25	which photomicrographs became part of the final
23	to simple questions. That's an Till looking for.	23	which photoinicrographs occarrie part of the final
	Page 191		Page 193
1	Page 191 They're very simple questions.	1	Page 193 report issued by Dr. MacLean?
1 2		1 2	
	They're very simple questions.		report issued by Dr. MacLean?
2	They're very simple questions.  MR. HUTCHINSON: We'll take a quick break.	2	report issued by Dr. MacLean? A. Yes.
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2 3 4	They're very simple questions.  MR. HUTCHINSON: We'll take a quick break.  THE VIDEOGRAPHER: Going off the record at 5:16.	2 3 4	report issued by Dr. MacLean?  A. Yes.  Q. And what input did you provide?  A. Well, I helped prepare the report in a
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	Page 194		Page 196
1	the document marked as Exhibit No. 20 I think	1	MR. HUTCHINSON: Object to form.
2	we're at 23, the document that I provided to the	2	THE WITNESS: Yes, I'm looking at the
3	court reporter as 8A.	3	photo.
4	(Whereupon, a brief discussion off the	4	BY MR. THORNBURGH:
5	record.)	5	Q. All right. Do you know why the photo was
6	(Whereupon, Exhibit 22 was marked for	6	taken in a way that blurred out the core in the
7	identification.)	7	picture?
8	BY MR. THORNBURGH:	8	MR. HUTCHINSON: Object to form.
9	Q. Dr. Benight, is this one of the images	9	THE WITNESS: In my experience in
10	that you took?	10	analyzing these samples, it's difficult to focus
11	A. It looks like it.	11	within the entire plane of the sample to be in
12	Q. Okay. And this would have been of Sample	12	focus.
13	No. 2?	13	So it makes sense to me that part of the
14	A. It doesn't have a label on it, sir.	14	sample would appear in focus and part of it would
15	Q. Well, couldn't you provide only Sample	15	not. That's not unusual.
16	No didn't Histion only process Sample No. 2 from	16	MR. THORNBURGH: We can go ahead let's
17	the QUV-treated samples?	17	go ahead and mark the document I have provided the
18	A. Histion processed an exemplar pristine	18	court reporter as 8B as Exhibit No. 23.
19	control mesh sample, a QUV process sample, and a	19	(Whereupon, a brief discussion off the
20	chemically oxidized process sample as well as a	20	record.)
21	control piece of tissue.	21	(Whereupon, Exhibit 23 was marked for
22	Q. Right. And so this was sent to us,	22	identification.)
23	identified as 2A 100X xpole 0028.	23	BY MR. THORNBURGH:
24	Okay?	24	Q. Okay. Doctor, this was provided to us
25	A. Okay.	25	with a title of 2A 100X BF.
1	Q. Does that indicate to you that this is a	1	Is would this have been a
2	photomicrograph of a fiber from Sample No. 2?	2	photomicrograph that was taken by the same personnel
3	A. Yes. Sample 2 in the image files		
		3	at Histion?
4		3 4	at Histion? A. Yes.
4 5	indicates that it was QUV-oxidized processed.		A. Yes.
5	indicates that it was QUV-oxidized processed.  Q. And you took this image, correct?	4 5	<ul><li>A. Yes.</li><li>Q. And Exhibit No. 22 and 23 are exhibits</li></ul>
	indicates that it was QUV-oxidized processed.  Q. And you took this image, correct?  A. No, this image was taken by personnel at	4	A. Yes. Q. And Exhibit No. 22 and 23 are exhibits or photomicrographs that actually made it into the
5 6	indicates that it was QUV-oxidized processed.  Q. And you took this image, correct?  A. No, this image was taken by personnel at Histion at my instruction.	4 5 6	A. Yes.  Q. And Exhibit No. 22 and 23 are exhibits or photomicrographs that actually made it into the report, correct?
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A. The whole slide, including the background, looks pink.  Q. But the — do you see the edge of the fiber, do you see blow there is a thin pink line that runs all the way around that fiber?  MR. HUTCHINSON: Object to form. THE WITNESS: Sir, the whole image looks pink.  BY MR. THORNBURGH:  Q. Do you all have a pink image?  A. Well, there is some blue in the image.  Q. Okay. Do you see the pink outer layer surrounding the mesh fiber?  MR. HUTCHINSON: Same objection. THE WITNESS: It's the same color as the background also within the specimen itself.  BY MR. THORNBURGH:  Q. It's actually — well, I think what background also within the specimen itself.  Q. It's actually — well, I think what was reporter's computer.  A. I can — I can put it into the court reporter's computer.  Q. Okay. Let's put it in and let's look at 24 Q. Okay. And do you see the mesh fiber?  A. Q. Okay. And do you see the mesh fiber?  A. Yes.  Q. Okay. And do you see the mesh fiber?  MR. HUTCHINSON: Object to form. THE WITNESS: In 0075, the background, as well as the sample, with the exception of the blue granules, is pink.  BY MR. THORNBURGH:  Q. Okay. Let's put it in and let's look at 24 Q. Okay. And do you see the mesh fiber?  A. Yes.  Q. Okay. And do you see the mesh fiber?  A. Yes.  Q. Okay. And do you see the mesh fiber?  MR. HUTCHINSON: The sorry, Dan. Pin going to be a clear transcript lecause, again, you are asking ber if the index pour actions and answered. Coursel, she just told you she didn't recall if we discussed this mouter pink layer.  Are you seeing something different on what you have and from the question.  You say yours is very clear and a clear  A. Okay. And do you see the outer layer that last an outer pink layer.  Are you seeing something different than what you are looking at on mine is a very clear in page of a fiber that has an outer pink layer.  Are you seeing something different than has an outer pink layer.  Are you seeing something different than that an outer pink layer.  Are you seeing something different than that		Page 198		Page 200
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1	BY MR. THORNBURGH:	1	correct?
2	Q. Dr. Benight, did you conduct any	2	A. I believe that we exposed them for
3	additional studies that we haven't discussed today?	3	24 hours
4	A. Related to this work?	4	Q. All right.
5	Q. Yes.	5	A and then inspected them and then
6	A. We have produced all of the records of the	6	exposed them for an additional 48 hours and then
7	experiments performed related to the study that was	7	inspected them and then exposed them for another
8	performed to investigate whether intentionally	8	48 hours, to total five days.
9	oxidized Prolene stains with H&E.	9	Q. Okay. So did are you the person that
10	Q. But my question was, have we discussed	10	what would have been part of that entire process?
11	today all of the studies or steps of studies that	11	A. Yes, I was I was part of that process.
12	you or Exponent performed strike that.	12	Q. Were there other individuals that also
13	That you performed in this case?	13	part of that process?
14	A. Yes.	14	A. I don't recall. I do recall setting
15	Q. In other words, there is no other studies	15	the the experiment up, sir.
16	that were conducted that I am unaware of; is that	16	Q. Okay. So you set the experiment up. You
17	correct?	17	put the machine in you put the samples into the
18	A. All of the records of the experiments	18	machine. You turned it on. You set the settings.
19	performed for this case have been produced to my	19	And in 24 hours you or somebody would have
20	knowledge.	20	gone back to the machine, checked the settings, I
21	Q. I just have a couple of questions. Then	21	assume, turned off the machine, opened up the
22	I then I'm done.	22	machine, took out the samples, and then looked at
23	You have performed the QUV intentional	23	the samples using scanning electron microscopy.
24	oxidation process, right?	24	Is that correct?
25	A. We performed that at Exponent.	25	A. Yes, except the machine turns off
	71. We performed that at Exponent.		71. 165, except the maxime turns of
	Page 203		Page 205
1	Q. And were were you part of that process?	1	
1 2	<ul><li>Q. And were were you part of that process?</li><li>A. Yes.</li></ul>	1 2	automatically if you set the time for it to run, but
	A. Yes.		
2		2	automatically if you set the time for it to run, but everything else you stated was correct.
2	A. Yes.  Q. Okay. And the QUV machine, what is that machine called?	2 3	automatically if you set the time for it to run, but everything else you stated was correct.  Q. Okay. So at that first 24-hour mark, who
2 3 4	<ul><li>A. Yes.</li><li>Q. Okay. And the QUV machine, what is that machine called?</li><li>A. I believe it is a Q-Lab Accelerated</li></ul>	2 3 4	automatically if you set the time for it to run, but everything else you stated was correct.  Q. Okay. So at that first 24-hour mark, who went in, checked the settings, opened up the machine, took the samples out, and looked at the
2 3 4 5	A. Yes.  Q. Okay. And the QUV machine, what is that machine called?	2 3 4 5	automatically if you set the time for it to run, but everything else you stated was correct.  Q. Okay. So at that first 24-hour mark, who went in, checked the settings, opened up the
2 3 4 5 6	<ul> <li>A. Yes.</li> <li>Q. Okay. And the QUV machine, what is that machine called?</li> <li>A. I believe it is a Q-Lab Accelerated</li> <li>Weathering Chamber.</li> <li>Q. Okay. And was the Q-Lab Accelerated</li> </ul>	2 3 4 5 6	automatically if you set the time for it to run, but everything else you stated was correct.  Q. Okay. So at that first 24-hour mark, who went in, checked the settings, opened up the machine, took the samples out, and looked at the samples using scanning electron microscopy?  A. I don't recall which specific personnel
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#### Page 208 Page 206 Dr. MacLean's report that the QUV process samples 1 right? 1 2 A. We're not required to write that down. 2 were exposed for a total of five days. 3 Q. The protocol didn't require you to write 3 I have told you and there is also SEM 4 that down, correct? 4 imaging as a traceability record to show that there 5 5 A. Well, we're not required to indicate which is SEM images after 24 hours, there is SEM images 6 6 specific staff member would have performed that after an additional 48 hours, and then there is SEM 7 7 action. And, really, it doesn't matter. images after the total of five days prior to when 8 8 the samples were analyzed with FTIR and then sent to Q. But the protocol that we talked about 9 earlier didn't require, as part of the protocol, for 9 Histion. 10 10 that person to record somewhere in -- internally in BY MR. THORNBURGH: 11 Ethicon the who, what, when, where, and the date 11 Q. Okay. That doesn't answer my question. 12 12 that that 24-hour process would have been conducted, My question was, what internal Exponent 13 13 right? document do I look to, to confirm, number one, who 14 MR. HUTCHINSON: Object to form. It's 14 would have started up the second phase of the QUV 15 compound. Also been asked and answered. process and whether or not they confirmed that the 15 THE WITNESS: What is important is that --16 16 settings were set consistent with the protocol? 17 17 excuse me, sir. Let me finish. MR. HUTCHINSON: Objection. Compound 18 What is important is that the program was 18 question. Argumentative. 19 set up and SEM was performed after the program that 19 THE WITNESS: As I mentioned, you know, 20 20 we're not required to say which person or staff set was set for 24 hours stopped automatically and 21 either myself or someone else imaged those with SEM. 21 the settings. There might be security footage. I 22 22 As I have stated, we're not required to don't know if it is present in that lab. 23 write down which specific Exponent personnel does 23 But, you know, in the report authored by 24 24 it. Dr. MacLean, we exposed the samples for a total of 25 25 five days. Page 207 Page 209 1 BY MR. THORNBURGH: 1 BY MR. THORNBURGH: 2 2 Q. And sitting here today, you can't tell me Q. I understand that -- you know, it says 3 who it was, right? 3 that the -- the expert report, which was created 4 A. I don't recall after -- at that point, as 4 after the experiment, states that it was radiated 5 5 I mentioned, there were three time points. I can't with .98 and it's got this little algorithm for, I 6 6 recall at the 24-hour time point who did that. guess, the level of radiation, then it says "UVB at 7 7 Q. Okay. So after those samples were -- one 60 degrees Celsius for five days." 8 8 or more of those samples were looked at under SEM I'm trying to figure out who would have 9 after the first 24-hour period, who started the 9 confirmed during the second phase of the QUV process 10 machine back up? 10 that those settings were reentered for the second 11 A. It was either myself or someone else at my 11 period of time of the QUV experiment? 12 12 MR. HUTCHINSON: Object to form. 13 13 Q. Okay. What internal Exponent document can THE WITNESS: Well, as far as the 14 I look to, to verify who would have started the 14 instrument itself, the same program that was 15 machine back up? 15 programmed before, when you reload it, is on the 16 A. As I mentioned, we're not required to 16 instrument, and so it would have been a matter of 17 state which specific person performed that action, 17 changing the time period from 24 hours to 48 hours. BY MR. THORNBURGH: 18 18 19 19 Q. Well, what internal document can I look Q. Okay. But what it --20 20 A. So that leaves very little room for error to, to see at this -- you know, after the first 21 21 24-hour period that the settings were set the way there. And --22 they were supposed to be set under the terms of the 22 O. Okay. But --23 protocol? 23 MR. HUTCHINSON: I'm sorry. 24 MR. HUTCHINSON: Object. Form. 24 Dr. Benight, finish your answer. 25 MR. THORNBURGH: I thought -- I thought 25 THE WITNESS: It was described in

	Page 210		Page 212
1	she was done, sorry.	1	Exhibit No. 18, correct?
2	THE WITNESS: That's it.	2	MR. HUTCHINSON: Object to form.
3	BY MR. THORNBURGH:	3	Argumentative. Also, Dan all right. Just strike
4	Q. So the answer is no, there is no internal	4	that.
5	document that I can look to, to confirm that the	5	Just object to form.
6	settings would have been the same settings that were	6	THE WITNESS: Sir, I have already
7	required under the protocol?	7	testified that we have provided a record of the
8	A. Sir, it says in our microscopy report, the	8	experiments performed as part of the production
9	report authored by Dr. MacLean, that the samples	9	provided to you electronically.
10	were exposed at .98 watts per meters squared	10	And in that production, you know, there
11	irradiance for five days at 60 degrees C. That's	11	are not handwritten notes, which appears to be what
12	what we did.	12	is on Exhibit No. 18. They are all provided
13	And there are SEM images at intermittent	13	electronically.
14	time points, which I have already explained to you,	14	BY MR. THORNBURGH:
15	of those samples.	15	Q. Okay. So after somebody at Exponent would
16	Q. I understand that's your testimony.	16	have taken the mesh samples from the SEM and put
17	But you understand that the report by	17	them back into the machine, they would have set the
18	Dr. MacLean was signed by him at some period after	18	machine for a period of what time?
19	those experiments were already conducted, right?	19	A. Well, there were three different time
20	A. Well, we can't write the report before the	20	points. The first experiment or time point that was
21	experiments are conducted, sir. So, yes	21	set up was for 24 hours.
22	Q. I	22	And then after the for the second time
23	A the report was created after all the	23	point, it was for an additional 48 hours. And then
24	experiments were performed.	24	that is documented in the SEM images acquired. And
25	Q. But let me try to answer maybe ask	25	then an additional 48 hours after that, to total
	D 011		
	Page 211		Page 213
1	it an easier way.	1	five days, there were SEM images acquired.
2	it an easier way.  Remember when we looked at Exhibit No. 18,	2	five days, there were SEM images acquired.  Q. Okay. And how did you come to understand
2	it an easier way.  Remember when we looked at Exhibit No. 18, which was Dr. Ong's lab notebook from the Lewis	2 3	five days, there were SEM images acquired.  Q. Okay. And how did you come to understand that there would be this process that would be
2 3 4	it an easier way.  Remember when we looked at Exhibit No. 18, which was Dr. Ong's lab notebook from the Lewis versus Ethicon litigation?	2 3 4	five days, there were SEM images acquired.  Q. Okay. And how did you come to understand that there would be this process that would be followed, that the mesh would be exposed to the
2 3 4 5	it an easier way.  Remember when we looked at Exhibit No. 18, which was Dr. Ong's lab notebook from the Lewis versus Ethicon litigation?  A. I have Document Exhibit No. 18 in front	2 3 4 5	five days, there were SEM images acquired.  Q. Okay. And how did you come to understand that there would be this process that would be followed, that the mesh would be exposed to the QUV in the QUV machine for 24 hours, then looked
2 3 4 5 6	it an easier way.  Remember when we looked at Exhibit No. 18, which was Dr. Ong's lab notebook from the Lewis versus Ethicon litigation?  A. I have Document Exhibit No. 18 in front of me.	2 3 4 5 6	five days, there were SEM images acquired.  Q. Okay. And how did you come to understand that there would be this process that would be followed, that the mesh would be exposed to the QUV in the QUV machine for 24 hours, then looked at under scanning electron microscopy, and then put
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Remember when we looked at Exhibit No. 18, which was Dr. Ong's lab notebook from the Lewis versus Ethicon litigation?  A. I have Document Exhibit No. 18 in front of me.  Q. Okay. So whoever would have come in and would have put the mesh specimens back into the QUV machine didn't document that process or the steps that they performed or the settings that were set at that time in a document similar to Exhibit No. 18, correct?  A. Well, sir, I don't see any QUV experiments in Exhibit No. 18.  Q. That wasn't my question.  A. And I also I also don't see any settings of that instrument in here.  Q. That wasn't my question.  A. Oh, okay.  Q. My question was my question was simply, whoever would have come in after the first 24-hour period and put the mesh samples back into the machine and then set the machine at the settings	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	five days, there were SEM images acquired.  Q. Okay. And how did you come to understand that there would be this process that would be followed, that the mesh would be exposed to the QUV in the QUV machine for 24 hours, then looked at under scanning electron microscopy, and then put into the machine again for another 48 hours, and then looked at under scanning electron microscopy, and then put back into the machine for a final 48 hours?  MR. HUTCHINSON: Objection. BY MR. THORNBURGH:  Q. How did that how did it come about that that process was followed or determined?  MR. HUTCHINSON: Object to form.  THE WITNESS: Well, we wanted to investigate what the samples looked like after incremental exposure to QUV. BY MR. THORNBURGH:  Q. Okay. So was there a written protocol that said, "Exponent will perform the QUV steps in the following ways: You will expose the manner for 24 hours, after that 24-hour period you will look at

#### Page 214 Page 216 1 of 48 hours"? 1 written protocol that explained or spelled out how 2 Was there some written protocol that you 2 these -- this process would take place? 3 received that told you that was the process you were 3 MR. HUTCHINSON: I understand. I am going 4 to follow? 4 to object to form to the extent it's been asked and 5 5 answered. You asked this same series of questions MR. HUTCHINSON: Object to form. 6 6 THE WITNESS: Well, from a fundamental at the very beginning of the deposition. 7 7 THE WITNESS: We intentionally treated the perspective, we did OUV treatment of the polymer 8 8 samples with QUV for a total of five days. samples because that's covered in over hundreds of 9 literature articles and -- including intentionally 9 And as part of the experiments we carried 10 10 oxidizing polymer samples. out, we chose to expose them first for 24 hours and 11 And for a specific protocol, we talked 11 then monitor via SEM what the morphology of the 12 about earlier we followed that of Dr. Reitman, et 12 samples looked like before proceeding for an additional 48 hours and another additional 48 hours. 13 al., given in a conference presentation. 13 14 14 BY MR. THORNBURGH: BY MR. THORNBURGH: 15 15 Q. The -- but did Dr. Reitman, et al., Q. You would agree with me that the hundreds 16 16 of articles that you keep referring to all have conference presentation instruct -- provide you 17 17 instruction to photooxidize these samples for different protocols in place, right? 18 18 A. I'm sure that they all vary to some 24 hours, to look at them using scanning electron 19 microscopy, then photooxidize them for another 19 extent, but when I referred to the hundreds of 20 20 articles, I was referring to QUV as a method to 48 hours, look at those samples using scanning 21 21 electron microscopy, and then continue the process induce changes in polymers, including oxidation. 22 22 Q. Were any of those articles from which you for another 48 hours? 23 23 MR. HUTCHINSON: Dan, in all candor, testify you -- you derived the protocol produced to 24 24 us -- or to me in Exhibits No. 6, 7, or 8? that's about six questions in one. Can you rephrase 25 25 your question, please? A. My knowledge and experience tells me from Page 215 Page 217 1 MR. THORNBURGH: Yeah, the -- I'm just 1 those hundreds of articles, sir, that that is well-understood in the literature. 2 2 trying to understand, she said she -- she said there 3 3 Q. That wasn't my question. With all due 4 MR. HUTCHINSON: I understand that, but 4 respect, my question was very simple. 5 what we need is we need a clean record. And we need 5 Were any of those published articles from 6 better questions that I can understand, at least. 6 which you derived this protocol produced to me in 7 7 MR. THORNBURGH: I think -- I think the --Exhibits No. 6, 7, or 8? 8 I think I understand the testimony. I think it's 8 A. No. The protocol that we followed was 9 pretty simple. 9 documented in the microscopy report authored by 10 Q. There was no written protocol that 10 Dr. MacLean which was given to you. That's a record 11 explicitly told you to photooxidize those specimens 11 of our experiments performed, sir. 12 in the QUV machine for -- during those three 12 MR. THORNBURGH: Well, just real quick, 13 13 intervals and to -- and in between those intervals, let's mark as Exhibit No. 25 -- I think it's 24 -to look at the specimen for -- using scanning 14 14 we have Exhibit 25, Dr. MacLean's expert report real 15 electron microscopy, right? 15 16 MR. HUTCHINSON: Okay. I'm going to 16 (Whereupon, Exhibit 25 was marked for 17 object to form. Also object to the extent it's been 17 identification.) THE WITNESS: I have Exhibit No. 25 in 18 asked and answered. Dan, you covered this earlier 18 19 19 in the deposition, if you may remember. front of me. 20 MR. THORNBURGH: Well, this -- no, this 20 BY MR. THORNBURGH: 21 21 was the first -- this was the first time that --Q. Okay. If you turn to -- to page No. 8 of 22 that she testified that there was these three 22 Exhibit 25. 23 intervals. 23 A. Okay. 24 Q. And I'm just trying to understand, before 24 Q. Okay. You see where it says, "Sections of 25 25 the -- before the experiment began, was there a Prolene mesh were placed inside the Q-Lab QUV

55 (Pages 214 to 217)

	Page 218		Page 220
1	Accelerated Weathering Tester and irradiated with	1	some sort of contemporaneous record that documented
2	.98 W over M squared UV dash UV minus A and UV	2	who would have periodically confirmed that the
3	minus B at 60 degrees Celsius for five days"?	3	settings remained at 37 degrees C, right?
4	Do you see that?	4	MR. HUTCHINSON: Objection.
5	A. Yes.	5	Argumentative.
6	Q. Is there a	6	THE WITNESS: We're not required to say
7	MR. HUTCHINSON: All right, Dan, could you	7	who checks on things, sir, and record that
8	slow excuse me, Dan. Could you slow down just a	8	information.
9	minute for the court reporter, please?	9	MR. THORNBURGH: I have no further
10	MR. THORNBURGH: Yep, yep.	10	questions, but will obviously maybe probably
11	Q. And do you see at the end of that sentence	11	will have some questions after Mr. Hutchinson asks
12	where that protocol is discussed, there is no	12	you some questions on direct.
13	reference to any article or to Dr. Reitman's	13	MR. HUTCHINSON: All right. We'll take a
14	presentation, right?	14	quick break.
15	A. I don't see a reference in this section.	15	MR. THORNBURGH: All right. How long you
16	There is also not a reference after the	16	want?
17	aforementioned sentence of, "A clean razor blade was	17	MR. HUTCHINSON: We'll see. I'll do the
18	used to cut sections for laboratory analysis."	18	best I can to make it as quickly
19	Q. Move to strike. Nonresponsive.	19	MR. THORNBURGH: I said how long do you
20	For the who did you perform all the	20	want on the break?
21	chemical oxidation steps?	21	MR. HUTCHINSON: I'll get back to you.
22	A. Myself and also other associates did.	22	THE VIDEOGRAPHER: Going off the record at
23	Q. Okay. And did those samples remain in the	23	6:07.
24	chemicals for 4.5 weeks; is that correct?	24	(Whereupon, a brief recess was taken.)
25	A. Yes. Samples were incubated at 37 degrees	25	THE VIDEOGRAPHER: Back on the record at
	·		
	Page 219		Page 221
1	for up to five weeks in oxidative media composed of	1	6:27.
1 2	for up to five weeks in oxidative media composed of .1 M CoCl2 in 20 weight percent H2O2.	1 2	6:27.  MR. HUTCHINSON: Okay. Dan, are you
	-		
2	.1 M CoCl2 in 20 weight percent H2O2.	2	MR. HUTCHINSON: Okay. Dan, are you
2	.1 M CoCl2 in 20 weight percent H2O2. Q. Okay. You say "incubated."	2 3	MR. HUTCHINSON: Okay. Dan, are you there?
2 3 4	.1 M CoCl2 in 20 weight percent H2O2. Q. Okay. You say "incubated." What do you mean by that?	2 3 4	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here.
2 3 4 5	.1 M CoCl2 in 20 weight percent H2O2. Q. Okay. You say "incubated." What do you mean by that? A. They were they were heated to	2 3 4 5	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here.  MR. HUTCHINSON: Good.
2 3 4 5 6	.1 M CoCl2 in 20 weight percent H2O2. Q. Okay. You say "incubated." What do you mean by that? A. They were they were heated to 37 degrees C once in the oxidative media and stored at that temperature.	2 3 4 5 6	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here.  MR. HUTCHINSON: Good.  EXAMINATION
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	.1 M CoCl2 in 20 weight percent H2O2.  Q. Okay. You say "incubated."  What do you mean by that?  A. They were they were heated to 37 degrees C once in the oxidative media and stored at that temperature.  Q. Okay. Somebody periodically checked to make sure the the incubator settings were remained set at 37 degrees C for the for the during the entire process, the four-and-a-half week process?  A. Yes. I mean, the once the instrument is set at that temperature, it doesn't change. And so but to answer your question, yes, people did periodically check to to double-check.  Q. Okay. And was that would that have been documented anywhere?  A. What is documented already which I have read to you from the report were that the samples were incubated at 37 degrees C for up to five weeks	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here. MR. HUTCHINSON: Good. EXAMINATION BY MR. HUTCHINSON:  Q. Dr. Benight, my name is Chad Hutchinson and I have the privilege of representing Ethicon and Johnson & Johnson and I want to ask you a couple questions, okay?  A. Okay. Q. Okay. Where do you work? A. I work at Exponent. Q. And how long have you worked at Exponent? A. A little over a year and a half. Q. What do you do at Exponent? A. I am a senior scientist there. Q. Are you also a chemist? A. Yes. Q. Would you describe your education for the
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	1 M CoCl2 in 20 weight percent H2O2. Q. Okay. You say "incubated." What do you mean by that? A. They were they were heated to 37 degrees C once in the oxidative media and stored at that temperature. Q. Okay. Somebody periodically checked to make sure the the incubator settings were remained set at 37 degrees C for the for the during the entire process, the four-and-a-half week process? A. Yes. I mean, the once the instrument is set at that temperature, it doesn't change. And so but to answer your question, yes, people did periodically check to to double-check. Q. Okay. And was that would that have been documented anywhere? A. What is documented already which I have read to you from the report were that the samples were incubated at 37 degrees C for up to five weeks in oxidative media composed of 0.1 M CoCl2 and 20	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here.  MR. HUTCHINSON: Good.  EXAMINATION BY MR. HUTCHINSON:  Q. Dr. Benight, my name is Chad Hutchinson and I have the privilege of representing Ethicon and Johnson & Johnson and I want to ask you a couple questions, okay?  A. Okay.  Q. Okay. Where do you work?  A. I work at Exponent.  Q. And how long have you worked at Exponent?  A. A little over a year and a half.  Q. What do you do at Exponent?  A. I am a senior scientist there.  Q. Are you also a chemist?  A. Yes.  Q. Would you describe your education for the jury, please?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Okay. You say "incubated."  What do you mean by that?  A. They were they were heated to 37 degrees C once in the oxidative media and stored at that temperature.  Q. Okay. Somebody periodically checked to make sure the the incubator settings were remained set at 37 degrees C for the for the during the entire process, the four-and-a-half week process?  A. Yes. I mean, the once the instrument is set at that temperature, it doesn't change. And so but to answer your question, yes, people did periodically check to to double-check.  Q. Okay. And was that would that have been documented anywhere?  A. What is documented already which I have read to you from the report were that the samples were incubated at 37 degrees C for up to five weeks in oxidative media composed of 0.1 M CoCl2 and 20 weight percent H2O2.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here.  MR. HUTCHINSON: Good.  EXAMINATION BY MR. HUTCHINSON:  Q. Dr. Benight, my name is Chad Hutchinson and I have the privilege of representing Ethicon and Johnson & Johnson and I want to ask you a couple questions, okay?  A. Okay.  Q. Okay. Where do you work?  A. I work at Exponent.  Q. And how long have you worked at Exponent?  A. A little over a year and a half.  Q. What do you do at Exponent?  A. I am a senior scientist there.  Q. Are you also a chemist?  A. Yes.  Q. Would you describe your education for the jury, please?  A. I have a bachelor's of science in
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	1 M CoCl2 in 20 weight percent H2O2. Q. Okay. You say "incubated." What do you mean by that? A. They were they were heated to 37 degrees C once in the oxidative media and stored at that temperature. Q. Okay. Somebody periodically checked to make sure the the incubator settings were remained set at 37 degrees C for the for the during the entire process, the four-and-a-half week process? A. Yes. I mean, the once the instrument is set at that temperature, it doesn't change. And so but to answer your question, yes, people did periodically check to to double-check. Q. Okay. And was that would that have been documented anywhere? A. What is documented already which I have read to you from the report were that the samples were incubated at 37 degrees C for up to five weeks in oxidative media composed of 0.1 M CoCl2 and 20	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. HUTCHINSON: Okay. Dan, are you there?  MR. THORNBURGH: I'm here.  MR. HUTCHINSON: Good.  EXAMINATION BY MR. HUTCHINSON:  Q. Dr. Benight, my name is Chad Hutchinson and I have the privilege of representing Ethicon and Johnson & Johnson and I want to ask you a couple questions, okay?  A. Okay.  Q. Okay. Where do you work?  A. I work at Exponent.  Q. And how long have you worked at Exponent?  A. A little over a year and a half.  Q. What do you do at Exponent?  A. I am a senior scientist there.  Q. Are you also a chemist?  A. Yes.  Q. Would you describe your education for the jury, please?

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1	nanotechnology from the University of Washington.	1	provided in the production.
2	Q. What is nanotechnology?	2	Q. And were all of them given to the
3	A. It's a study of various small things,	3	plaintiffs' lawyer before this deposition started?
4	essentially.	4	A. Yes.
5	Q. Were you involved in the experiment or	5	MR. THORNBURGH: Objection.
6	testing that is the subject of Dr. MacLean's expert	6	THE WITNESS: To my knowledge, yes.
7	report?	7	BY MR. HUTCHINSON:
8	A. Yes.	8	Q. Could lab documentation be considered a
9	Q. Would you tell the jury what work that you	9	lab notebook, if you will?
10	did on that project?	10	A. Yes.
11	A. I helped to do experiments. I also helped	11	
12		12	MR. THORNBURGH: Objection.
	to coordinate other staff, and I helped in		THE WITNESS: Yes.
13	preparation of the report. I also helped in	13	BY MR. HUTCHINSON:
14	reviewing documentation.	14	Q. Can lab documentation or lab notebooks be
15	Q. And were you working at the direction of	15	kept in different types of format?
16	Dr. MacLean?	16	A. Yes.
17	A. Yes.	17	Q. Would it be acceptable for lab
18	Q. Okay. Are you proud of the work that you	18	documentation to be in a bound or stitched
19	have done?	19	spirally bound notebook?
20	A. Yes.	20	A. Yes.
21	MR. THORNBURGH: Objection.	21	Q. Alternatively, would it be acceptable for
22	Argumentative.	22	lab documentation to be in a loose-leaf, three-ring
23	BY MR. HUTCHINSON:	23	binder?
24	Q. Let's talk about lab documentation for a	24	A. Yes.
25	minute, okay?	25	MR. THORNBURGH: Object.
1	A. Okay.	1	BY MR. HUTCHINSON:
2	Q. As a scientist, what does lab	2	Q. Alternatively, would it be acceptable for
3	documentation mean to you?	3	lab documentation to be in electronic format?
4	A. It is a record of experiments performed in	4	A. Yes.
5	a laboratory.	5	MR. THORNBURGH: Objection.
6	Q. Why is is laboratory documentation	6	BY MR. HUTCHINSON:
7	important?	7	Q. And did you provide or give the
8	A. Yes.	8	plaintiffs' lawyers the lab documentation in an
9	Q. Why?	9	electronic format before today's deposition?
10	A. It ensures that the experiments that are	10	A. Yes.
	performed are recorded so that another reasonable	11	Q. Dr. Benight, are there benefits to keeping
11	performed are recorded so that unother reasonable	1	Q. Br. Beinghi, are there benefits to keeping
	scientist can repeat the work if needed.	12	lab documentation in an electronic format?
11	-		
11 12	scientist can repeat the work if needed.	12	lab documentation in an electronic format?
11 12 13	scientist can repeat the work if needed.  Q. Is it the primary record of research?	12 13	lab documentation in an electronic format?  A. Yes.
11 12 13 14	Q. Is it the primary record of research? A. Yes.	12 13 14	lab documentation in an electronic format?  A. Yes.  Q. Like what?
11 12 13 14 15	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments	12 13 14 15	<ul><li>lab documentation in an electronic format?</li><li>A. Yes.</li><li>Q. Like what?</li><li>A. Oh, it is easily shared among people. You</li></ul>
11 12 13 14 15 16	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.	12 13 14 15 16	lab documentation in an electronic format?  A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in
11 12 13 14 15 16 17	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab	12 13 14 15 16 17	A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes.
11 12 13 14 15 16 17 18	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab documentation for the experiment that we have been	12 13 14 15 16 17 18 19	A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes. Q. And when we talk about storing large
11 12 13 14 15 16 17 18 19	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab documentation for the experiment that we have been here discussing today?	12 13 14 15 16 17 18 19 20	lab documentation in an electronic format?  A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes. Q. And when we talk about storing large amounts of data, do SEMs or scanning electronic
11 12 13 14 15 16 17 18 19 20 21	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab documentation for the experiment that we have been here discussing today?  A. Yes.	12 13 14 15 16 17 18 19 20 21	lab documentation in an electronic format?  A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes. Q. And when we talk about storing large amounts of data, do SEMs or scanning electronic microscopy images, do they take up a large amount of
11 12 13 14 15 16 17 18 19 20 21 22	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab documentation for the experiment that we have been here discussing today?  A. Yes.  Q. Has that lab documentation been given to	12 13 14 15 16 17 18 19 20 21 22	lab documentation in an electronic format?  A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes. Q. And when we talk about storing large amounts of data, do SEMs or scanning electronic microscopy images, do they take up a large amount of electronic data?
11 12 13 14 15 16 17 18 19 20 21 22 23	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab documentation for the experiment that we have been here discussing today?  A. Yes.  Q. Has that lab documentation been given to the plaintiffs' lawyer?	12 13 14 15 16 17 18 19 20 21 22 23	lab documentation in an electronic format?  A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes. Q. And when we talk about storing large amounts of data, do SEMs or scanning electronic microscopy images, do they take up a large amount of electronic data? A. Generally, yes.
11 12 13 14 15 16 17 18 19 20 21 22	scientist can repeat the work if needed.  Q. Is it the primary record of research?  A. Yes.  Q. Okay. And does it explain how experiments were performed?  A. Yes.  Q. Okay. Dr. Benight, did you keep lab documentation for the experiment that we have been here discussing today?  A. Yes.  Q. Has that lab documentation been given to	12 13 14 15 16 17 18 19 20 21 22	lab documentation in an electronic format?  A. Yes. Q. Like what? A. Oh, it is easily shared among people. You are able to store large amounts of data, and you reduce the amount of transcription errors in hand-writing notes. Q. And when we talk about storing large amounts of data, do SEMs or scanning electronic microscopy images, do they take up a large amount o electronic data?

	Page 226		Page 228
1	A. Okay.	1	BY MR. HUTCHINSON:
2	Q. Did you document the microscopy work that	2	Q. Is traceability important?
3	you did by way of taking micrographs?	3	A. Yes.
4	A. Yes.	4	Q. Why?
5	Q. And did you save all of those micrographs	5	A. It ensures that the experiments that are
6	electronically?	6	outlined in the record of the experiments performed,
7	A. Yes.	7	were performed.
8	Q. Have those micrographs been given to the	8	Q. Okay. Does the lab documentation show
9	plaintiffs' lawyer?	9	traceability between the original mesh, the samples
10	A. Yes.	10	that were prepared and stained, and the results of
11	Q. Does the lab documentation that has been	11	this experiment?
12	given to the plaintiffs' lawyers before this	12	MR. THORNBURGH: Objection. Which sample
13	deposition explain how this experiment was	13	are you talking about?
14	performed?	14	BY MR. HUTCHINSON:
15	A. Yes.	15	Q. You can answer.
16	Q. Does it	16	A. All of the samples as part of this
17	MR. THORNBURGH: Objection.	17	investigation were documented, and the samples that
18	BY MR. HUTCHINSON:	18	were created as a result of the work done at Histion
19	Q. Does it include documentation of all steps	19	were returned to me.
20	taken during this experiment?	20	Q. Dr. Benight, have you maintained and
21	MR. THORNBURGH: Objection.	21	preserved all the samples from this testing?
22	THE WITNESS: Yes. All of the steps in	22	A. Yes.
23	this these experiments were provided in the	23	Q. Dr. Benight, did you follow the same
24	production given to you electronically.	24	procedure and use the same rigor in conducting this
25	production given to you electronically.	25	experiment that you would have if you would have
	Page 227		Page 229
1	BY MR. HUTCHINSON:	1	submitted it for publication in a peer-reviewed
2	Q. Does or given to the plaintiffs?	2	journal?
3	A. Given to the plaintiffs electronically.	3	MR. THORNBURGH: Objection.
4	Q. Thank you. And does it include all	4	THE WITNESS: Yes.
5	information another scientist would need to repeat	5	BY MR. HUTCHINSON:
6	your work or Dr. MacLean's work?	6	Q. Let's talk about the protocol for the
7	A. Yes.	7	actual experiment for a minute, okay?
8	Q. Does it include all the information needed	8	A. Okay.
9	for another scientist to verify this work done by	9	Q. Who is Dr. Iakovlev?
	Exponent?	10	A. He is one of the plaintiffs' experts.
10			1 1
	A. Yes.	11	Q. And is that is Dr. Guelcher a plaintiff
10	A. Yes. MR. THORNBURGH: Objection.	11 12	
10 11			Q. And is that is Dr. Guelcher a plaintiff
10 11 12	MR. THORNBURGH: Objection.	12	Q. And is that is Dr. Guelcher a plaintiff expert as well?
10 11 12 13	MR. THORNBURGH: Objection. BY MR. HUTCHINSON:	12 13	<ul><li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li><li>A. Yes.</li></ul>
10 11 12 13 14	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been	12 13 14	<ul><li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li><li>A. Yes.</li><li>Q. Were you trying to recreate and reproduce</li></ul>
10 11 12 13 14 15	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable	12 13 14 15	<ul> <li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li> <li>A. Yes.</li> <li>Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have</li> </ul>
10 11 12 13 14 15	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records?	12 13 14 15 16	<ul> <li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li> <li>A. Yes.</li> <li>Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?</li> </ul>
10 11 12 13 14 15 16 17	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records? A. Yes.	12 13 14 15 16 17	<ul> <li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li> <li>A. Yes.</li> <li>Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?</li> <li>A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for</li> </ul>
10 11 12 13 14 15 16 17	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records? A. Yes. Q. And what do you mean by "traceable records"?	12 13 14 15 16 17 18	Q. And is that is Dr. Guelcher a plaintiff expert as well?  A. Yes. Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?  A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for Dr. Guelcher, the chemically oxidized protocol.
10 11 12 13 14 15 16 17 18	MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records?  A. Yes.  Q. And what do you mean by "traceable	12 13 14 15 16 17 18 19	Q. And is that is Dr. Guelcher a plaintiff expert as well?  A. Yes. Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?  A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for Dr. Guelcher, the chemically oxidized protocol. Q. And when you mean you followed the
10 11 12 13 14 15 16 17 18 19	MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records?  A. Yes.  Q. And what do you mean by "traceable records"?  MR. THORNBURGH: Objection.  THE WITNESS: Records that show what	12 13 14 15 16 17 18 19 20	<ul> <li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li> <li>A. Yes.</li> <li>Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?</li> <li>A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for Dr. Guelcher, the chemically oxidized protocol.</li> <li>Q. And when you mean you followed the protocols that they used, what do you mean by that?</li> </ul>
10 11 12 13 14 15 16 17 18 19 20 21	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records? A. Yes. Q. And what do you mean by "traceable records"? MR. THORNBURGH: Objection. THE WITNESS: Records that show what samples were sent to Histion, where the processing,	12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li> <li>A. Yes.</li> <li>Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?</li> <li>A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for Dr. Guelcher, the chemically oxidized protocol.</li> <li>Q. And when you mean you followed the protocols that they used, what do you mean by that?</li> <li>A. The information from their expert reports</li> </ul>
10 11 12 13 14 15 16 17 18 19 20 21 22	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records? A. Yes. Q. And what do you mean by "traceable records"? MR. THORNBURGH: Objection. THE WITNESS: Records that show what samples were sent to Histion, where the processing, embedding, and staining of the samples happened.	12 13 14 15 16 17 18 19 20 21	Q. And is that is Dr. Guelcher a plaintiff expert as well?  A. Yes. Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?  A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for Dr. Guelcher, the chemically oxidized protocol. Q. And when you mean you followed the protocols that they used, what do you mean by that?  A. The information from their expert reports and the IUGA proceedings paper.
10 11 12 13 14 15 16 17 18 19 20 21 22 23	MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. Does the lab documentation that has been given to the plaintiffs' lawyer include traceable records? A. Yes. Q. And what do you mean by "traceable records"? MR. THORNBURGH: Objection. THE WITNESS: Records that show what samples were sent to Histion, where the processing,	12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>Q. And is that is Dr. Guelcher a plaintiff expert as well?</li> <li>A. Yes.</li> <li>Q. Were you trying to recreate and reproduce the testing that Drs. Iakovlev and Guelcher have done?</li> <li>A. We followed their protocols that they have used. For Dr. Iakovlev, the staining, and for Dr. Guelcher, the chemically oxidized protocol.</li> <li>Q. And when you mean you followed the protocols that they used, what do you mean by that?</li> <li>A. The information from their expert reports</li> </ul>

	Page 230		Page 232
1	A. Okay.	1	about whether or not you followed a written protocol
2	Q. Did you perform the control experiments	2	for the QUV oxidation.
3	that neither Dr. Iakovlev nor Dr. Guelcher performed	3	Do you remember that line of questioning?
4	in their mesh-staining work?	4	A. Yes.
5	MR. THORNBURGH: Objection.	5	Q. Did you need to have a written protocol?
6	THE WITNESS: Yes.	6	A. No, it's not necessary.
7	BY MR. HUTCHINSON:	7	Q. Why not?
8	Q. And what does it show?	8	A. It's important that you record the
9	A. The results of our work showed that	9	experiments that you perform.
10	intentionally oxidized Prolene mesh does not stain	10	Q. And why would you not need a written
11	with H&E.	11	protocol?
12	Q. Dr. Benight, let's talk about Histion for	12	A. Well, we followed a protocol given in
13	a minute, okay?	13	hundreds of literature papers where it's
14	A. Okay.	14	demonstrated that QUV is a way to induce changes in
15	Q. What is Histion Labs?	15	polymer samples including oxidation, and we followed
16	A. It is a histopathology lab in Everett,	16	a specific irradiance in temperature given in
17	Washington.	17	Dr. Reitman, et al., a conference presentation.
18	Q. And what does "histopathology" mean?	18	Q. Dr. Benight, to your knowledge, would
19	A. It's the includes the study of staining	19	Dr. Iakovlev or Dr. Guelcher have access to the
20	tissue with different stains.	20	written protocol for QUV oxidation?
21	Q. And does Histion Labs have a specialty or	21	A. Yes.
22	area of expertise?	22	Q. How so?
23	A. They have an impeccable reputation for	23	A. Well, the hundreds of literature papers
24	staining and processing slides and tissue.	24	are I'm sure some of them are publicly available
25	Q. And Dr. Benight, when you say they have	25	to them, and but mainly, the procedures that were
	Page 231		Page 233
1	"an impeccable reputation," how do you know that?	1	C11 1 1 (1: D.M.T. )
2		1 +	followed are documented in Dr. MacLean's expert
2	MR. THORNBURGH: Objection.	2	report.
3	MR. THORNBURGH: Objection. THE WITNESS: Colleagues of mine at		
		2	report.
3	THE WITNESS: Colleagues of mine at	2	report.  Q. Would you consider it a simple procedure?
3 4	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for	2 3 4	report.  Q. Would you consider it a simple procedure?  A. Yes.
3 4 5	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.	2 3 4 5	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.
3 4 5 6	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:	2 3 4 5 6	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:
3 4 5 6 7	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years. BY MR. HUTCHINSON: Q. Did Histion	2 3 4 5 6 7	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?
3 4 5 6 7 8	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.	2 3 4 5 6 7 8	report. Q. Would you consider it a simple procedure? A. Yes. MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. And why is that? A. It requires a few steps and it's easy to
3 4 5 6 7 8 9	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON: Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:	2 3 4 5 6 7 8	report. Q. Would you consider it a simple procedure? A. Yes. MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. And why is that? A. It requires a few steps and it's easy to follow.
3 4 5 6 7 8 9	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality	2 3 4 5 6 7 8 9	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?
3 4 5 6 7 8 9 10	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years. BY MR. HUTCHINSON: Q. Did Histion MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample	2 3 4 5 6 7 8 9 10	report. Q. Would you consider it a simple procedure? A. Yes. MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. And why is that? A. It requires a few steps and it's easy to follow. Q. Do you have Exhibit 1 in front of you? A. Yes.
3 4 5 6 7 8 9 10 11	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years. BY MR. HUTCHINSON: Q. Did Histion MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation?	2 3 4 5 6 7 8 9 10 11	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.
3 4 5 6 7 8 9 10 11 12 13	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years. BY MR. HUTCHINSON: Q. Did Histion MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?
3 4 5 6 7 8 9 10 11 12 13 14	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation?  A. Yes. Q. Would that include embedding the samples	2 3 4 5 6 7 8 9 10 11 12 13 14	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation?  A. Yes. Q. Would that include embedding the samples in either paraffin or resin? MR. THORNBURGH: Objection. THE WITNESS: Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	report. Q. Would you consider it a simple procedure? A. Yes. MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q. And why is that? A. It requires a few steps and it's easy to follow. Q. Do you have Exhibit 1 in front of you? A. Yes. Q. Would you tell the jury what Exhibit 1 is, please? A. Exhibit 1 is a microscopy image index. Q. And was this document created contemporaneously or at the same time with these experiments?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation?  A. Yes. Q. Would that include embedding the samples in either paraffin or resin? MR. THORNBURGH: Objection. THE WITNESS: Yes.  BY MR. HUTCHINSON:	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.  Q. And was this document created contemporaneously or at the same time with these experiments?  A. This document was created after the
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON: Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation? A. Yes. Q. Would that include embedding the samples in either paraffin or resin? MR. THORNBURGH: Objection. THE WITNESS: Yes.  BY MR. HUTCHINSON: Q. Would that include either microtoming or	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.  Q. And was this document created contemporaneously or at the same time with these experiments?  A. This document was created after the experiments were performed.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years. BY MR. HUTCHINSON: Q. Did Histion MR. THORNBURGH: Objection. BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation? A. Yes. Q. Would that include embedding the samples in either paraffin or resin? MR. THORNBURGH: Objection. THE WITNESS: Yes. BY MR. HUTCHINSON: Q. Would that include either microtoming or cutting the samples?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.  Q. And was this document created contemporaneously or at the same time with these experiments?  A. This document was created after the experiments were performed.  Q. All right. And why was it not created
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation?  A. Yes. Q. Would that include embedding the samples in either paraffin or resin? MR. THORNBURGH: Objection. THE WITNESS: Yes.  BY MR. HUTCHINSON: Q. Would that include either microtoming or cutting the samples? A. Yes.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.  Q. And was this document created contemporaneously or at the same time with these experiments?  A. This document was created after the experiments were performed.  Q. All right. And why was it not created contemporaneously with the experiments?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	THE WITNESS: Colleagues of mine at Exponent have told me and Exponent has used them for years.  BY MR. HUTCHINSON:  Q. Did Histion MR. THORNBURGH: Objection.  BY MR. HUTCHINSON: Q Labs follow its internal quality control procedures when it performed the sample preparation?  A. Yes. Q. Would that include embedding the samples in either paraffin or resin? MR. THORNBURGH: Objection. THE WITNESS: Yes.  BY MR. HUTCHINSON: Q. Would that include either microtoming or cutting the samples? A. Yes. Q. Would that include staining or attempting	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	report.  Q. Would you consider it a simple procedure?  A. Yes.  MR. THORNBURGH: Objection.  BY MR. HUTCHINSON:  Q. And why is that?  A. It requires a few steps and it's easy to follow.  Q. Do you have Exhibit 1 in front of you?  A. Yes.  Q. Would you tell the jury what Exhibit 1 is, please?  A. Exhibit 1 is a microscopy image index.  Q. And was this document created contemporaneously or at the same time with these experiments?  A. This document was created after the experiments were performed.  Q. All right. And why was it not created contemporaneously with the experiments?  A. This document was created at the request

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to be created contemporaneously with the experiments?  A. No. Q. Why not? A. It is a unidex which is usually created after all of the items to be included in the index after all of the items to be included in the index after all of the items to be included in the index after all of the items to be included in the index after all of the items to be included in the index are completed.  Q. Dr. Bernight, do you have Exhibit No. 8 in p. Dr. Bernight, do you have Exhibit No. 8 in p. Dr. Bernight, do you have Exhibit No. 8 in p. Dr. Bernight, do you have Exhibit No. 8 in p. Dr. Bernight, do you have Exhibit No. 8 in p. Dr. Bernight, do you follow the test of lish drives.  Q. And would you identify that exhibit for the provised of the contents on Exhibit 8 include the TVM consolidated to contents on Exhibit 8 include the TVM consolidated to contents on Exhibit 8 include the TVM consolidated to contents on Exhibit 8 include the TVM consolidated to contents on Exhibit 8 include the TVM consolidated to contents on Exhibit 8 include the TVM consolidated to content entitled "HIS-IIS Sample Chain of Custody document which is a calculation based on the chemical bonds that are present in that test the stead of the content of the sample analyzed.  A. It's just a second time of doing an FTIR to experiment. It was done in this case so that a background spectrum of the sample analyzed and we spectrum of the sample analyzed.  A. It's just a second time of doing an FTIR to experiment. It was done in this case on that a psectrum of the sample analyzed and we spectrum of the sample analyzed and we prevently as part of the first FTIR.  A. Harman and why it was done?  A. It's a way to dead of sample analyzed and we spectrum of the sample analyzed and we have doing with the first FTIR.  A. Na Maybe, yeah.  Q. Dr. Bernight, day ou want to ensure that you are only detecting chemical bonds		Page 234		Page 236
3 Q. And Dr. Benight, you testified earlier 4 Q. Why not? 5 A. It's an index which is usually created 5 after all of the items to be included in the index 6 after all of the items to be included in the index 8 Q. Dr. MacLean – I'm sorry – strike that. 9 Dr. Benight, do you have Exhibit No. 8 in 9 Dr. Benight, do you have Exhibit No. 8 in 11 A. Oh, yes. 12 Q. And would you identify that exhibit for 13 us, please? 14 A. Exhibit 8 is a flash drive provided – 15 brought with me here to the deposition, and the 16 contents on Exhibit 8 include the TVM consolidated 17 ccase doe, my Dues Tecenor notice of deposition a 18 document entitled "III5-I IS Sample Chain of Custody 19 Form," which I believe is also produced as a paper 20 exhibit already. 21 And a folder labeled "QUV," which includes 22 optical microscopy and Self mages, a folder labeled 23 2015-08-I 4_COCL2mesh, Iwoweeks, which contains SEM images a folder labeled and it also contains 24 images labeled "oxidized mesh," and it also contains 25 a protocol document which is a calculation based on 26 Exhibit 8. 27 A. Yes. This is electronically given on 28 Exhibit 8. 29 Q. And the chain of custody documents that you just mentioned, when did you receive it? 3 A. Yes. 3 Q. Dr. Bernight, tyou were asked questions 24 earlier by the plantiff's lawyer about the scientific method. 3 Page 237 4 Q. Br. Bernight, why wasn't the information on Exhibit 8, he flash drive, provided with 3 Dr. BacLean's production? 4 Q. If s been a long day? 5 A. Yes. 6 Q. And self and what is on Exhibit 8? 6 Q. Dr. Bernight, tyou wasn't in his file. 7 Q. What does "FTIR" stand for? 8 Q. What does "FTIR" stand for? 9 Q. Po. Bernight, test lake bout FTIRs for a minute, okay? 14 Q. Dr. Bernight, test lake bout FTIRs for a minute, okay? 15 A. Fourier Transform Infarred Spectroscopy. 16 Q. And to a layperson, what does ETIR do? 17 Dr. Bernight, you were asked questions 18 A. Fourier Transform Infarred Spectroscopy. 29 Q. What does "FTIR" stand for? 20 Q. Dr. Bernight, Lest lake bout FTIRs for a minut	1	to be created contemporaneously with the	1	based on the chemical bonds that are present in that
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60 (Pages 234 to 237)

	Page 238		Page 240
1	investigation.	1	and characteristics to the samples of the batch that
2	Do you remember those lines that line	2	were all processed in a similar manner.
3	of questioning?	3	Q. Dr. Benight, do you need to have scanning
4	A. Yes.	4	electron microscopy of Sample No. 2?
5	Q. Did you do a statistical analysis for this	5	A. It's not needed, no.
6	experiment?	6	Q. Okay. Why not? Why is it not needed?
7	A. No.	7	A. Because scanning electron microscopy
8	Q. Why not?	8	images of samples that were processed in the same
9	A. The sets of experiments were control	9	way, in the same amount of time, with the same
10	experiments done to investigate whether	10	process were already recorded.
11	intentionally oxidized Prolene mesh stains with H&E.	11	Q. Along those lines Dr. Benight, would you
12	It wasn't a statistical analysis.	12	need to do an FTIR analysis on Sample No. 2?
13	Q. And tell the jury what a control	13	A. No
14	experiment is, please?	14	MR. THORNBURGH: Objection.
15	A. It is a it's an experiment done to	15	BY MR. HUTCHINSON:
16	essentially show what you expect to happen from that	16	Q. Why not?
17	experiment, is what you find.	17	A. We performed FTIR on samples that were
18	Q. And while we are talking about statistical	18	processed in the similar manner, at the same time,
19	analyses, do you know if Dr. Iakovlev conducted a	19	under the same conditions. And so it's it wasn't
20	statistical analysis?	20	necessary to do an FTIR on every individual sample.
21	A. I haven't seen a record of any statistical	21	Q. Dr. Benight, you were asked questions
22	analysis that Dr. Iakovlev would have performed.	22	about Sample Nos. 1 through 6 and what was sent to
23	Q. Have you seen	23	Histion.
24	MR. THORNBURGH: Objection.	24	Do you remember that line of questioning
25	J	25	by the plaintiffs' lawyer?
	Page 239		Page 241
1	BY MR. HUTCHINSON:	1	A. Yes.
2	Q. Have you seen a record or do you know if		
~		2	Q. What would you tell a jury about the
3	Dr. Guelcher conducted a statistical analysis?	3	traceability of those samples?
3 4	Dr. Guelcher conducted a statistical analysis?  MR. THORNBURGH: Objection.		traceability of those samples?  A. I received a chain of custody form from
	Dr. Guelcher conducted a statistical analysis?	3	traceability of those samples?
4	Dr. Guelcher conducted a statistical analysis?  MR. THORNBURGH: Objection.	3 4	traceability of those samples?  A. I received a chain of custody form from Histion of all of the samples that are part of this investigation, including those that were processed
4 5	Dr. Guelcher conducted a statistical analysis?  MR. THORNBURGH: Objection.  THE WITNESS: I haven't seen a record of	3 4 5	traceability of those samples?  A. I received a chain of custody form from Histion of all of the samples that are part of this
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	Page 242		Page 244
1	BY MR. HUTCHINSON:	1	A. Yes. So here is slide number 15-118-4A,
2	Q. Dr. Benight, what did you bring with you	2	and you can see that there are four individual
3	to today's deposition?	3	sections of slices of paraffin, and if you look very
4	A. I brought my notice of deposition, the	4	closely, there is sections of mesh sort of in the
5	chain of custody form that I received yesterday from	5	center of each of those very thin slices and
6	the lab, three jump drives or or flash drives	6	sections.
7	labeled Exhibits 6, 7, and 8, and two blue boxes	7	Q. And Dr. Benight, is there a number on that
8	that include slides and samples from the study	8	particular slide?
9	performed.	9	A. Yes, this is 15-118-4A, which indicates to
10	Q. Let's talk about let's talk about the	10	me that this was underwent the chemically
11	blue would you hold it up and show the jury,	11	oxidizing protocol, and is embedded in a paraffin
12	please?	12	wax.
13	A. Yes.	13	Q. And Dr. Benight, on the your left side
14	Q. And maybe turn it?	14	of the box, I see various things in bags; is that
15	A. This is the one of the blue boxes and	15	correct?
16	in	16	A. Yes.
17	Q. If you could open it without everything	17	Q. Okay. Would you identify for the jury
18	falling out	18	what are in the bags, please?
19	A. I'll try.	19	A. Yes. These are part of the original
20	Q. Very carefully.	20	packaging that was sent to the lab
21	A. Inside I'll tilt it, and inside there	21	Q. And what do you mean by "packaging"?
22	are resin and paraffin blocks. So the samples that	22 23	A. These samples are in a wrapped in foil
23 24	were sent that we processed at Exponent were sent to	24	and then in a plastic bag which has a label on it.
25	the lab and they embedded them in either a resin or paraffin.	25	So for example, this one says that it's "UV oxidized" and you can see that it's there was
23	paratitii.	23	O V Oxidized and you can see that it's there was
	Page 243		Page 245
1	Page 243  And as an example, this is a paraffin	1	Page 245 a slide with some yellow tape where the mesh that
1 2		1 2	
	And as an example, this is a paraffin		a slide with some yellow tape where the mesh that
2	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the	2	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that
2	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.	2 3	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the
2 3 4 5 6	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's	2 3 4 5 6	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?
2 3 4 5 6 7	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular	2 3 4 5 6 7	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's
2 3 4 5 6 7 8	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular one that I'm that I'm holding up, which is sample	2 3 4 5 6 7 8	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's  Q. And what does that number mean?
2 3 4 5 6 7 8	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular one that I'm that I'm holding up, which is sample 1B, and which is pristine Prolene mesh.	2 3 4 5 6 7 8	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's Q. And what does that number mean? A. Well, the number H15-118-2, is
2 3 4 5 6 7 8 9	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular one that I'm that I'm holding up, which is sample 1B, and which is pristine Prolene mesh.  And so once the samples are processed and	2 3 4 5 6 7 8 9	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's Q. And what does that number mean? A. Well, the number H15-118-2, is indicates that it's Sample No. 2.
2 3 4 5 6 7 8 9 10	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular one that I'm that I'm holding up, which is sample 1B, and which is pristine Prolene mesh.  And so once the samples are processed and embedded in those polymer blocks, then they are cut	2 3 4 5 6 7 8 9 10	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's Q. And what does that number mean? A. Well, the number H15-118-2, is indicates that it's Sample No. 2. Q. Okay. And what does that tell us about
2 3 4 5 6 7 8 9 10 11	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular one that I'm that I'm holding up, which is sample 1B, and which is pristine Prolene mesh.  And so once the samples are processed and embedded in those polymer blocks, then they are cut into very thin slices.	2 3 4 5 6 7 8 9 10 11	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's Q. And what does that number mean? A. Well, the number H15-118-2, is indicates that it's Sample No. 2. Q. Okay. And what does that tell us about traceability?
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2 3 4 5 6 7 8 9 10 11 12 13 14	And as an example, this is a paraffin block, so you can see wax inside of it. And if we look at a resin block, that looks more like this, where it is a different type of polymer that the the mesh sample is embedded in.  And if you look very closely, it's there, you can see blue fibers in this particular one that I'm that I'm holding up, which is sample 1B, and which is pristine Prolene mesh.  And so once the samples are processed and embedded in those polymer blocks, then they are cut into very thin slices.  Q. And Dr. Benight, do you have any of those thin slices with you today?	2 3 4 5 6 7 8 9 10 11 12 13 14	a slide with some yellow tape where the mesh that was processed by Histion was when it was shipped from Exponent to Histion.  Q. And Dr. Benight, while you have that showing it to the jury, is there a number on the backside or on the front side, rather?  A. Yeah, it's Q. And what does that number mean? A. Well, the number H15-118-2, is indicates that it's Sample No. 2. Q. Okay. And what does that tell us about traceability?  A. That it's been documented.  MR. THORNBURGH: Objection.
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1 2			Page 248
2	today?	1	A. It was processed as part of the work that
l -	A. Yes. There are	2	is covered in Dr. MacLean's report.
3	Q. What do they show?	3	Q. Okay. Is that all of the bags that are in
4	A. There are additional samples that were	4	that box?
5	sent. We have samples in aluminum foil where	5	A. There is one more.
6	there is a tiny mesh sample contained in there and I	6	Q. And what does it show?
7	can open it for you if you would like, but it's	7	A. It has a slide with mesh.
8	contained inside this aluminum foil. And then this	8	Q. And does it have some writing on the
9	is inside a plastic bag which has a label on it for	9	outside?
10	oxidized mesh.	10	A. Yes, it says.
11	So this is chemically oxidized mesh and it	11	Q. What does the writing say?
12	says "backup only." We wanted to sort of cover our	12	A. 15-118-6.
13	basis, if you will, so we sent more than one sample	13	Q. And what does that mean?
14	in case the lab needed it for their work.	14	A. That means that it's part of the study and
15	Q. And do you have any other bags on that	15	it also says "QUV mesh" on it.
16	side of the box?	16	Q. Okay. And what does "QUV mesh" mean?
17	A. There's two. The one I was holding up,	17	A. That means that the mesh was exposed to a
18	there are two that are similar, is labeled	18	QUV irradiation for five days at 60 degrees at an
19	H15-115-3A, and then also H15-115-3B, and there are	19	irradiance of .98 watts per meter squared.
20	a few other bags including "COC12 oxidized mesh,"	20	Q. What is in that bag?
21	labeled, one for paraffin and one for resin.	21	A. Inside here we have a slide wrapped in
22	And the one for paraffin is labeled	22	aluminum foil, and if I'm unwrapping the aluminum
23	H15-118-4A, and the second one for resin is labeled	23	foil, we see that there is a glass slide and then
24	H15-118-4B. And currently, if we look closer, there	24	also a mesh sample I'll try not to drop it
25	is no mesh in the bag.	25	there is a mesh sample that has not been embedded in
			·
	Page 247		Page 249
1	Q. Excuse me. Why would there not be any	1	paraffin or resin-embedding media.
2	mesh in the bag?	2	Q. And Dr. Benight, are these the type of
3	A. The mesh that was in here when we sent it	3	procedures that you as a scientist use to document
4	was processed as part of the work that we have been	4	your work?
5	discussing and is the basis for Dr. MacLean's	5	A. The procedures this all of this is
6	report.	6	covered in the chain of custody documents, sir.
7	So there is no mesh because all of it was	7	Q. Is this the type of work that you normally
8	embedded, and since this says 4A, it was embedded in	8	do?
9	paraffin.	9	A. We do keep track of samples that are sent,
10	Q. Okay. Have we discussed all the bags?	10	yes.
11	A. There is there is an additional bag	11	Q. Okay. And there is a second box that you
12	that is labeled "Exemplar."	12	have brought with you today; is that correct?
13	Q. And what is what does "exemplar" mean	13	A. Yes.
14	here?	14	Q. And would you show the jury what is in the
15	A. It's out of the box pristine Prolene.	15	second box?
16	Q. Does that mean it's never been before used	16	A. Sure. So the second box is smaller and
17	in the body?	17	it's also a blue box, and inside this box see if
18	A. Yes.	18	I can open it there is additional microscope
19	Q. Okay.	19	slides that were that were created as part of
20	A. Or intentionally oxidized. So this	20	this study. And we have them like here is an
21	Q. What does that bag show us right there?	21	example
	A. It's labeled "Exemplar" and labeled	22	Q. What does it and what does it say?
22	-		
	H15-118-1, and if we look closely there is also no	23	A. This slide is labeled H15-118-1B, and
22		23 24	A. This slide is labeled H15-118-1B, and it it's exemplar mesh stained with H&E or gone through the staining protocol.

63 (Pages 246 to 249)

1	Page 250		Page 252
1	Q. Okay. Dr. Benight, were these two blue	1	questions. Thank you for your time.
2	boxes of slides available for Dr. Thornburgh I'm	2	A. You are welcome.
3	sorry, for Mr. Thornburgh's review today?	3	MR. HUTCHINSON: Dan, do you have any
4	A. Yes, they are available here at the	4	further questions or are we done? Do you need to
5	deposition.	5	take a break?
6	Q. Okay. Dr. Benight, I want to ask you	6	MR. THORNBURGH: I have very few
7	MR. THORNBURGH: Objection.	7	additional questions.
8	BY MR. HUTCHINSON:	8	MR. HUTCHINSON: Okay.
9	Q another question.	9	THE WITNESS: I would like to take a
10	A. Okay.	10	break.
11	Q. Or another line of questioning, rather.	11	MR. HUTCHINSON: Okay. That's fine.
12	You were asked some questions earlier	12	That's fine. We'll take a quick break.
13	about who at Exponent divided Sample No. 6 and the	13	THE VIDEOGRAPHER: Going off the record at
14	documentation for that.	14	7:05.
15	Do you remember that line of questioning?	15	(Whereupon, a brief recess was taken.)
16	A. Yes.	16	THE VIDEOGRAPHER: Back on the record at
17	Q. Dr. Benight, is it an internal Exponent	17	7:08.
18	policy and procedure to document who cuts a sample	18	EXAMINATION
19	with the razor blade?	19	BY MR. THORNBURGH:
20	A. No.	20	Q. Dr. Benight, do you recall questions that
21	Q. Why not?	21	defense counsel asked you regarding the scientific
22	A. It really doesn't matter.	22	method that you performed and/or followed in this
23	MR. THORNBURGH: Objection.	23	case?
24	BY MR. HUTCHINSON:	24	A. Yes.
25	Q. Was the mesh indeed cut with a razor	25	Q. And do you recall that you were asked some
	Page 251		Page 253
1	blade?	1	questions about the control experiment?
2	A. To my knowledge, yes.	2	A. Yes.
3	Q. And is the name of the person who cuts the	3	Q. And you were asked some questions about
4	sample with the razor blade information that would	4	the lack of statistical analysis that was conducted
5	be necessary for a scientist to repeat the	5	in this case?
6	experiment?	6	A. I was asked about statistical analysis
7	A. No.	7	related to this project or investigative work that
8	Q. Okay. Dr. Benight, you were asked	8	we performed, and also, whether any statistical
9	questions about internal documents for the operating	9	analysis was performed by plaintiffs' experts
10	of the QUV chamber.	10	Dr. Guelcher and Dr. Iakovlev.
11	Do you remember that line of questioning?	11	Q. Okay. So my question really quick is, and
11 12	A. Yes.	11 12	I'm just going to summarize really quick to try to
	<ul><li>A. Yes.</li><li>Q. Is Exponent required to document the name</li></ul>	12 13	I'm just going to summarize really quick to try to expedite this process, but only one sample was
12 13 14	<ul><li>A. Yes.</li><li>Q. Is Exponent required to document the name of the person who makes the settings on the QUV</li></ul>	12 13 14	I'm just going to summarize really quick to try to expedite this process, but only one sample was submitted to was processed by Histion for their
12 13 14 15	A. Yes. Q. Is Exponent required to document the name of the person who makes the settings on the QUV machine?	12 13 14 15	I'm just going to summarize really quick to try to expedite this process, but only one sample was submitted to was processed by Histion for their histopathology slides, correct?
12 13 14 15 16	<ul><li>A. Yes.</li><li>Q. Is Exponent required to document the name of the person who makes the settings on the QUV machine?</li><li>A. No.</li></ul>	12 13 14 15 16	I'm just going to summarize really quick to try to expedite this process, but only one sample was submitted to was processed by Histion for their histopathology slides, correct?  A. Well, we
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12 13 14 15 16	<ul> <li>A. Yes.</li> <li>Q. Is Exponent required to document the name of the person who makes the settings on the QUV machine?</li> <li>A. No.</li> <li>Q. Why not?</li> <li>A. It's it's not important who does it.</li> </ul>	12 13 14 15 16	I'm just going to summarize really quick to try to expedite this process, but only one sample was submitted to was processed by Histion for their histopathology slides, correct?  A. Well, we Q. I'm sorry A. I'm sorry, I didn't finish my question.
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12 13 14 15 16 17 18	<ul> <li>A. Yes.</li> <li>Q. Is Exponent required to document the name of the person who makes the settings on the QUV machine?</li> <li>A. No.</li> <li>Q. Why not?</li> <li>A. It's it's not important who does it.</li> <li>Q. Is the name of that person important for</li> </ul>	12 13 14 15 16 17 18 19	I'm just going to summarize really quick to try to expedite this process, but only one sample was submitted to was processed by Histion for their histopathology slides, correct?  A. Well, we Q. I'm sorry A. I'm sorry, I didn't finish my question. Q. I'll withdraw the question. Let me withdraw the question and ask it a better way. A. Okay.
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	Page 254		Page 256
1	sent and processed to create several different	1	performed the chemically oxidized protocol outlined
2	slides.	2	in that paper for those samples. And for the QUV
3	Q. Okay.	3	samples, you know, QUV irradiation is a common way
4	A. And there is also a residual resin and	4	to induce changes in polymers including oxidation,
5	paraffin block from which tens or possibly hundreds	5	and is present in hundreds of literature papers.
6	of additional sections could be processed.	6	So in a fundamental sense, we followed
7	Q. Okay. But only one sample was actually	7	that protocol. Furthermore, we followed a protocol
8	processed into histopathology slides from the	8	outlined by Reitman, et al., in a conference
9	QUV-treated samples, right?	9	presentation for specific conditions followed.
10	A. Yes. One sample was, yes.	10	Q. Okay. But for the staining of the mesh,
11	Q. Okay. And and how do you know that the	11	the way the mesh was stained, did you follow
12	outcome or the observations that you made didn't	12	Dr. Iakovlev's staining protocol or the protocol
13	occur as a result of chance?	13	that was discussed in his peer-reviewed publication?
14	A. We processed several samples within a	14	A. I believe the protocol was given as an
15	batch and multiple samples within that batch that	15	exhibit in one of his trial testimonies and that is
16	were processed under the same condition, the same	16	the protocol that we instructed the lab to follow as
17	time, the same temperature, or in the case of the	17	closely as possible.
18	chemically oxidized protocol the same solution, more	18	Q. And it would have been important for you
19	than one sample was either characterized with SEM	19	to follow Dr. Iakovlev's protocol, correct?
20	and/or FTIR to show that each of the samples had	20	A. The staining protocol, correct.
21	been processed similarly. And so we chose to send	21	Q. You didn't actually follow or instruct
22	one representative sample from those batches for	22	Histion to follow the staining protocol that is
23	processing at Histion.	23	published by Dr. Iakovlev
24	Q. And only one representative sample from	24	(Whereupon, technical difficulties.)
25	the QUV-treated experiment was processed by Histion,	25	THE WITNESS: We just lost him. There is
1	Page 255	1	Page 257
1 2	right?	1 2	nothing on the phone screen.
2	right?  A. Well, we sent a few but one of those	2	nothing on the phone screen.  MR. HUTCHINSON: There is nothing on the
2	right?  A. Well, we sent a few but one of those samples that was processed was sent to Histion to	2	nothing on the phone screen.  MR. HUTCHINSON: There is nothing on the what?
2 3 4	right?  A. Well, we sent a few but one of those samples that was processed was sent to Histion to create several different sections or slides.	2	nothing on the phone screen.  MR. HUTCHINSON: There is nothing on the what?  THE WITNESS: The phone screen.
2 3 4 5	right?  A. Well, we sent a few but one of those samples that was processed was sent to Histion to create several different sections or slides.  Q. Would you agree with me that if you would	2 3 4 5	nothing on the phone screen.  MR. HUTCHINSON: There is nothing on the what?  THE WITNESS: The phone screen.  THE VIDEOGRAPHER: It's dead?
2 3 4	right?  A. Well, we sent a few but one of those samples that was processed was sent to Histion to create several different sections or slides.  Q. Would you agree with me that if you would have sent three or four or five samples to Histion	2 3 4	nothing on the phone screen.  MR. HUTCHINSON: There is nothing on the what?  THE WITNESS: The phone screen.
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	Page 258		Page 260
1	A. I may have read it previously but not	1	how Dr. MacLean described horizontal or vertical. I
2	recently.	2	have not seen his deposition testimony. But from
3	Q. Okay. In on page 21 of Exhibit	3	what I saw, when I was at the lab, and Dr. MacLean
4	Number 25?	4	was also present via videoconference, but what I saw
5	A. Okay.	5	was that the slides were mounted so that the
6	Q. You see where it says the,	6	thickness of the slide was inserted in a holder and
7	"Paraffin-embedded samples were stained using an	7	then those slides were immersed in each of those
8	automated stainer programmed with the following	8	solutions and taken through the protocol outlined on
9	protocol."	9	page 21 of Exhibit 25 as specified for the different
10	Do you see that?	10	incubation times and steps which is in line and
11	A. Yes.	11	followed from Dr. Iakovlev's protocol from his
12	Q. Okay. Do you know what type of stainer	12	previous trial testimony.
13	Dr. Iakovlev used in his studies?	13	(Reporter clarification.)
14	A. We followed the protocol, stain protocol,	14	MR. HUTCHINSON: Dan, I'm sorry, but the
15	that Dr. Iakovlev used. I believe the exhibits were	15	court reporter is saying that she cannot hear you.
16	from some of his trial testimony and had the	16	So you are still breaking up on us. Could you move
17	heading, "St. Michael's histology protocol" on them.	17	closer to the phone or maybe move your cell phone
18	Q. And you did that because it would have	18	away from it, please.
19	been important to follow the protocol that	19	MR. THORNBURGH: I'm on the phone. I'm
20	Dr. Iakovlev followed, correct?	20	here. I'm speaking loud and clear. Hopefully you
21	A. As part of our experiments we wanted to	21	can hear me loud and clear.
22	follow Dr. Iakovlev's protocol as closely as	22	THE WITNESS: That's better.
23	possible.	23	BY MR. THORNBURGH:
24	Q. And did you use a vertical or a horizontal	24	Q. I just have a few more questions.
25	tray?	25	You testified that as it related to the
	uuy.		Tou testified that as it related to the
	Page 259		Page 261
1		1	Page 261  QUV Sample No. 2 that was processed by Histion, that
1 2	A. I'm sorry, can you repeat the question,	1 2	
			QUV Sample No. 2 that was processed by Histion, that
2	A. I'm sorry, can you repeat the question, please?     MR. HUTCHINSON: Dan, you are actually	2	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not
2	A. I'm sorry, can you repeat the question, please?	2	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?
2 3 4	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move	2 3 4	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.
2 3 4 5	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.	2 3 4 5	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed
2 3 4 5 6	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal	2 3 4 5 6	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the
2 3 4 5 6 7	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:	2 3 4 5 6 7	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and
2 3 4 5 6 7 8	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?	2 3 4 5 6 7 8	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are
2 3 4 5 6 7 8	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and	2 3 4 5 6 7 8	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.
2 3 4 5 6 7 8 9	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that	2 3 4 5 6 7 8 9	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample
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2 3 4 5 6 7 8 9 10 11	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help. BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?	2 3 4 5 6 7 8 9 10 11	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?
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2 3 4 5 6 7 8 9 10 11 12 13 14	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?  A. I believe that the slides were mounted on there horizontally. So that they were they were sort of in I guess you could call it like a	2 3 4 5 6 7 8 9 10 11 12 13 14 15	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?  A. That is one option, sir.  Q. And that's an option that wasn't chosen, correct?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help. BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?  A. I believe that the slides were mounted on there horizontally. So that they were they were sort of in I guess you could call it like a holder where the thin part of the slide was mounted and then submerged in the solution.  Q. Dr. MacLean testified that it was on a vertical tray.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?  A. That is one option, sir.  Q. And that's an option that wasn't chosen, correct?  A. As I previously stated, we looked at samples that were treated and processed in the same batch as the sample that was sent to Histion with SEM and FTIR.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help. BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?  A. I believe that the slides were mounted on there horizontally. So that they were they were sort of in I guess you could call it like a holder where the thin part of the slide was mounted and then submerged in the solution.  Q. Dr. MacLean testified that it was on a vertical tray.  A. Okay.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?  A. That is one option, sir.  Q. And that's an option that wasn't chosen, correct?  A. As I previously stated, we looked at samples that were treated and processed in the same batch as the sample that was sent to Histion with SEM and FTIR.  Q. But not done for Sample No. 2?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?  A. I believe that the slides were mounted on there horizontally. So that they were they were sort of in I guess you could call it like a holder where the thin part of the slide was mounted and then submerged in the solution.  Q. Dr. MacLean testified that it was on a vertical tray.  A. Okay.  Q. Do you know if it was vertical or horizontal, and if you don't know, what document	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?  A. That is one option, sir.  Q. And that's an option that wasn't chosen, correct?  A. As I previously stated, we looked at samples that were treated and processed in the same batch as the sample that was sent to Histion with SEM and FTIR.  Q. But not done for Sample No. 2?  A. Sample No. 2 was part of the batch that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?  A. I believe that the slides were mounted on there horizontally. So that they were they were sort of in I guess you could call it like a holder where the thin part of the slide was mounted and then submerged in the solution.  Q. Dr. MacLean testified that it was on a vertical tray.  A. Okay.  Q. Do you know if it was vertical or	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?  A. That is one option, sir.  Q. And that's an option that wasn't chosen, correct?  A. As I previously stated, we looked at samples that were treated and processed in the same batch as the sample that was sent to Histion with SEM and FTIR.  Q. But not done for Sample No. 2?  A. Sample No. 2 was part of the batch that was processed equally, sir. From the SEM and FTIR
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	A. I'm sorry, can you repeat the question, please?  MR. HUTCHINSON: Dan, you are actually breaking up a little bit. Maybe if you could move closer to the phone that would help.  BY MR. THORNBURGH:  Q. Did you use a vertical or a horizontal tray when the staining process occurred?  A. The samples were mounted in a tray and then immersed in each of the reservoirs that contained these different solutions.  Q. Horizontal or vertical tray?  A. I believe that the slides were mounted on there horizontally. So that they were they were sort of in I guess you could call it like a holder where the thin part of the slide was mounted and then submerged in the solution.  Q. Dr. MacLean testified that it was on a vertical tray.  A. Okay.  Q. Do you know if it was vertical or horizontal, and if you don't know, what document would verify or confirm for us whether it was	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	QUV Sample No. 2 that was processed by Histion, that scanning electron microscopy and FTIR was not performed on that sample, correct?  A. Excuse me.  SEM and FTIR were performed on QUV-exposed samples that were treated in the same way during the same amount of time and the same temperature and irradiance as the Sample No. 2 that you are referring to.  Q. Okay. Now, you could have analyzed Sample No. 2 using SEM and FTIR before sending it to Histion, correct?  A. That is one option, sir.  Q. And that's an option that wasn't chosen, correct?  A. As I previously stated, we looked at samples that were treated and processed in the same batch as the sample that was sent to Histion with SEM and FTIR.  Q. But not done for Sample No. 2?  A. Sample No. 2 was part of the batch that was processed equally, sir. From the SEM and FTIR that we did, the spectra and the images showed

	Page 262		Page 264
1	similar.	1	STATE OF CALIFORNIA )
2	Q. The decision was made not to look at	2	COUNTY OF YOLO )
3	Sample No. 2 using FTIR or scanning electron	3	I, ELAINA BULDA-JONES, a Certified Shorthand
4	microscopy, correct?	4	Reporter of the State of California, duly authorized
5	A. Sample 2 was sent to Histion for	5	to administer oaths pursuant to Section 2025 of the
6	processing, embedding, and staining.	6	California Code of Civil Procedure, do hereby
7	Q. Who made the decision not to do SEM	7	certify that
8	analysis and FTIR analysis on Sample No. 2?	8	STEPHANIE BENIGHT, Ph.D.,
9	A. I don't recall, sir.	9	the witness in the foregoing deposition, was by me
10	Q. You testified a couple moments ago that	10	duly sworn to testify the truth, the whole truth and
11	the Exhibit No. 8 and the other materials that you	11	nothing but the truth in the within-entitled cause;
12	brought with you today were not provided to	12	that said testimony of said witness was reported by
13	Dr. MacLean prior to issuing his expert report,	13	me, a disinterested person, and was thereafter
14	correct?	14	transcribed under my direction into typewriting and
15	A. It's my understanding that those materials	15	is a true and correct transcription of said
16	were not in his file. They were in my file.	16	proceedings.
17	MR. HUTCHINSON: And Dan, I'm going to	17	I further certify that I am not of counsel or
18	object to the extent that it's mischaracterization	18	attorney for either or any of the parties in the
19	of the testimony. I think it was before	19	foregoing deposition and caption named, nor in any
20	Dr. MacLean's deposition that you are talking about.	20	way interested in the outcome of the cause named in
21	MR. THORNBURGH: That's not the way the	21	said deposition dated the day of
22	transcript will speak for itself.	22	, 2015.
23	MR. HUTCHINSON: Okay. Good. Thank you.	23	
24	MR. THORNBURGH: I have no further	24	
25	questions.	25	ELAINA BULDA-JONES, CSR 11720
	Page 263		Page 265
1	MR. HUTCHINSON: All right. We're going	1	INSTRUCTIONS TO WITNESS
2	to take a quick break and we'll be back on the	2	
3	record in just a second.	3	Please read your deposition
4	THE VIDEOGRAPHER: Off the record at 7:30.	4	over carefully and make any necessary
5	(Whereupon, the deposition was concluded	5	corrections. You should state the reason
6	at 7:30 p.m.)	6	in the appropriate space on the errata
7	• /	7	sheet for any corrections that are made.
8		8	After doing so, please sign
9		9	the errata sheet and date it. It will be
10		10	attached to your deposition.
11		11	
		11	It is imperative that you
11			It is imperative that you return the original errata sheet to the
11 12		11 12 13	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days
11 12 13		11 12 13 14	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript
11 12 13 14		11 12 13 14 15	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the
11 12 13 14 15		11 12 13 14 15 16	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be
11 12 13 14 15		11 12 13 14 15 16 17	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the
11 12 13 14 15 16 17		11 12 13 14 15 16 17 18	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be
11 12 13 14 15 16 17 18		11 12 13 14 15 16 17 18	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be
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11 12 13 14 15 16 17 18 19 20 21 22		11 12 13 14 15 16 17 18 19 20 21 22	It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be

67 (Pages 262 to 265)